

April 21, 1986

Honorable Frank McCloskey
House of Representatives
Washington, D.C. 20515

Dear Mr. McCloskey:

I would like to respond to your concerns regarding the Solvent TF-1, the reported information that it contains an Appendix VIII hazardous constituent, and any regulatory implications of such information.

First, let me indicate that, at this time, we cannot release the information you requested since this information has been claimed by Union Carbide to be confidential. Thus, unless Union Carbide were to declassify this material, or the Agency were to reach an independent conclusion that this information is, in fact, not confidential, we cannot legally provide this information to the public. Nevertheless, if the Agency were to determine, as you requested, that TF-1 does contain an Appendix VIII hazardous constituent, this would not automatically make this solvent a hazardous waste that is subject to regulation under RCRA. In particular, in listing a waste as hazardous, the Agency considers a number of factors (i.e., concentration of contaminant in the waste, migration potential of the contaminant, persistence of the contaminant, quantities of waste generated, as well as others) in addition to which contaminants may be present in the waste. Thus, although TF-1 may contain an Appendix VIII hazardous constituent, if the concentration of the contaminant in the solvent were low, or if the potential for the contaminant to migrate from the waste into the environment were minimal, or if the contaminant is not persistent in the environment, the Agency is likely not to list this solvent as hazardous. We have yet to evaluate the hazardousness of TF-1.

Since, at the present time, neither PCB wastes nor the specific TF-1 solvent or its constituents are presently defined as hazardous wastes (40 CFR §261.31, §261.32, and §261.33), UNISON is not subject to any specific regulatory requirement as a generator/disposer of hazardous wastes. They will be subject to regulation under TSCA which has the authority to regulate the handling and disposal of PCB containing waste.

The Agency has scheduled toxicity testing for several of the TF-1 constituents and is in the process of proposing to list PCB wastes. At such time as these wastes become listed, this facility will be brought under the umbrella of RCRA and therefore be subject to the full range of regulatory requirements for a treatment/disposal facility including eventual permitting.

This will not restrict the use of the solvent, but it will assure the proper handling and disposal of waste generated in the process.

Faxback 11144

I hope this clarifies the confusion regarding the relationship between TF-1 and Appendix VIII and defines the regulatory options available. Please feel free to write me if you have any further question.

Sincerely,

J . Winston Porter
Assistant Administrator

March 20, 1986

The Honorable Lee Thomas
Administrator
Environmental Protection Agency
401 M Street SW Washington, D.C. 20460

Dear Mr. Thomas:

It has come to my attention that the solvent to be used by UNISON, the wholly owned subsidiary of Union Carbide, at its proposed PCB-removal plant in Henderson, KY contains a chemical with a trade name of TF-1. There apparently is some evidence, including Court documents filed by Union Carbide, that this solvent may contain a hazardous constituent under appendix VIII of RCRA. However, due to claims of confidential business information, UNISON has refused to respond to requests to produce the chemical composition of TF-1.

While I understand the rights claimed by UNISON, I must stress that the protection of the health of the people and the environment in the affected area should be of primary importance.

Therefore, I would request that your agency determine whether TF-1 does contain a hazardous appendix VIII constituent. A limited investigation to ascertain the answer to only this request, and not the complete chemical formula, will protect the claimed rights of Union Carbide and, at the same time, provide information so that your agency can adequately review the risk involved by the operation of this plant.

In the event you determine that a component of TF-1 is a listed substance, please advise me as to what impact such a finding would have on the control of its use under any Federal law or regulation.

I look forward to your early response to this request.

Sincerely,

Frank McCloskey
Member of Congress