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June 9, 1976

No. 22

TO: All Members of PVC/VCM Mailing Lists

Ladies and Gentlemen:

Although final actions have not yet been taken (nor are they expected in the immediate future), we thought it might be advisable to bring you up to date on developments in both the Food and Drug Administration (FDA) and Environmental Protection Agency (EPA) areas, some time having past since you received our letter No. 21. In addition, we are enclosing a general information item which represents an interesting forecast of possible changes in Occupational Safety and Health Administration (OSHA) activities.

FDA

First, and contrary to what some of you may have heard from other sources recently, there appears to be no likelihood that any FDA action with respect to promulgation of regulations for polyvinyl chloride will be taken before the end of July or the beginning of August at the very earliest, with late August or September being more likely. These estimates flow from our own most recent contacts with FDA, and were confirmed by an item in the Monday, June 7, 1976 edition of Food Chemical News in which Stuart Pape, an attorney on the staff of the Chief Counsel and one of those handling the PVC regulation, is quoted as saying a final regulation is not to be expected for two to three months. A copy of page 2 of Food Chemical News for June 7 containing the cited item is attached with the kind permission of the publisher.

SPI-13218

June 9, 1976
Page Two

Among the questions which need to be resolved before a final PVC regulation can be promulgated is the matter of jurisdiction over potable water pipe. You will recall that FDA had proposed an interim regulation for PVC potable water pipe. In its Comments, SPI (and others as well) pointed out that the Safe Drinking Water Act designates the Environmental Protection Agency as the sole federal agency with direct responsibility for assuring the quality of public drinking water supply systems. Discussions have been going on between representatives of FDA and EPA to resolve this question.

As we understand it, the jurisdictional question is viewed as being significantly broader than the matter of potable water pipe in that it includes discussions of water used as a food ingredient in commercial food processing plants, direct additives to water for water treatment purposes, as well as the possibility of indirect additives entering water as a result of contact with equipment used in the water distribution system.

A conference has been arranged for next week at which time we shall present additional arguments to FDA staff members. Subsequently, it is quite possible that there may be meetings with EPA staff members to present similar arguments. You can expect to hear from us regarding the results of these meetings promptly after they have been held.

EPA

As we have frequently done in the past, we are attaching a copy of a letter dated May 26, 1976 from the firm of Ruckelshaus, Beveridge, Fairbanks and Diamond, our associate counsel for EPA matters. We believe that this will bring you fully up to date with respect to EPA's review of the Comments filed and progress being made toward the promulgation of the vinyl chloride standard for emissions.

SPI-13219

June 9, 1976
Page Three

General

We are enclosing a copy of an article in the June 14, 1976 edition of Business Week entitled "Why Nobody Wants to Listen to OSHA." This appears to be a relatively balanced story of the problems facing Morton Corn, the new OSHA Administrator, with a discussion of his perception of the proper approach OSHA should take in the future.

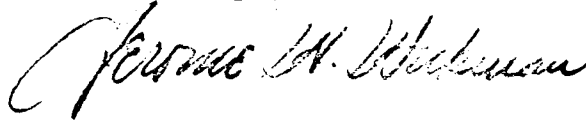
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We shall continue to make every effort to keep you fully and promptly informed on the various aspects of the PVC problem.

Cordially yours,

A handwritten signature in cursive script, appearing to read "Jerome W. Robinson".

Enclosures

SPI-13220

MICHIGAN PBB public hearing to establish action levels of 5 p.p.m. for meat and eggs and 1 p.p.b. for milk is scheduled for Thursday (June 10) in Lansing (See FOOD CHEMICAL NEWS, May 31, Page 38).

FTC denied the Grocery Manufacturers of America's petition to withdraw its Food Advertising proposal in light of the Supreme Court decision prohibiting government from suppressing "truthful information" in advertising (See story, Page 35). Saying FTC has not attempted to suppress truthful information, Presiding Officer William D. Dixon invited GMA to make its arguments at the public hearing.

COMMON NAME decision upholding FDA's regulation for frozen heat-and-serve dinners and seafood cocktails (See FOOD CHEMICAL NEWS, April 12, Page 24) will be appealed by the American Frozen Food Institute's new legal counsel, Collier, Shannon, Rill and Edwards. AFFI's President Thomas B. House announced June 3.

FOODS CONTAINING FD&C RED 2 which were manufactured prior to FDA's revocation of the provisional listing of the color additive may be sold, Associate Commissioner Sam D. Fine said in response to a telephone inquiry. Brad Bryan, Baton Rouge, La., had asked about the status of grape beverage he has on hand containing Red 2, noting that it had been manufactured prior to FDA's announcement on Red 2, but had not yet been packaged.

SALMONELLA policy change under which FDA will cease routinely sampling animal feed and feed ingredients for Salmonella (See FOOD CHEMICAL NEWS, April 26, Page 7) will be reflected in the revocation of §500.35 of the regulations, which covers "animal feeds contaminated with Salmonella microorganisms." This change will ease the obligation on the agency to detain or enjoin feeds and feed ingredients found to contain Salmonella.

PVC final order is still 2-3 months away. FDA attorney Stuart Pape indicated in a meeting with Harry Lambeth, representing the PVC Belting Manufacturing Association, and Kenn Vitek, Scandura (See FOOD CHEMICAL NEWS, April 13, Page 21).

IMITATION labeling of fruit flavored sweetened spreads was urged in comments from Continental Can's White Cap Division, Clements Foods and T. W. Garner Foods (See FOOD CHEMICAL NEWS, May 31, Page 12), while Globe Products endorsed the comments filed earlier by the National Preservers Association (See FOOD CHEMICAL NEWS, April 26, Page 48).

NYLON 12 RESINS clearance under §121.2502 will not be expanded unless Emser Werke files a Petition for consideration of the expanded clearance it had sought in a comment on an earlier food additive clearance for the resins (See FOOD CHEMICAL NEWS, March 22, Page 38; and April 26, Page 44), according to a memorandum of a telephone conversation Bureau of Foods' Thomas Brown had with the firm recently.

TYLOSIN New Animal Drug regulation was amended June 2 to grant to Carl S. Akey, Inc., a premix level of 10 grams per pound for the manufacture of swine feed.

FOI regulations would be amended under a June 4 FDA proposal which would open to agency contractors data and information otherwise exempt from public disclosure. The material would be disclosed to contractors "for use only in their work for the FDA" without triggering general disclosure of the information. The proposal is open for comment for