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December 17, 1974

TO: All Members of:

SPI Food, Drug and Cosmetic
Packaging Materials Committee;
General Polyvinyl Chloride Interest
Mailing List;
Ad Hoc Liquor Bottle Committee;
Plastic Pipe Institute
(Executive Board);
SPI Executive Committee;
SPI Public Affairs Committee;
VC and PVC Producers Committee

*Spoke to
Janet Murray
re SPI Reports
2/6/75
She will check
further*

Ladies and Gentlemen:

On Friday, December 13, 1974 the United States Court of Appeals for the Second Circuit heard Oral Arguments on the Petitions for Review of the Occupational Safety and Health Administration's Standard for Exposure to Vinyl Chloride, all Briefs having been filed as of December 11. At the end of the Argument, the Court granted the Petitioners' Motions for a Stay until such time as it renders a decision on the merits of the case.

Obviously, the Court's action on the Stay constitutes something of a victory but it should in no way be taken as a true indicator vis-a-vis the ultimate resolution of the case. On the basis of what has happened to date, we are making no predictions in this regard and will continue to refuse to do so. In some respects, it would seem reasonable to assume that one major reason for the Court's granting the Stay was the fact that this is a complicated case and there had not been adequate time for the three judge panel, including Mr. Justice Clark, to study the Briefs and voluminous Record.

The Court's formal written order granting the Stay has just been filed with the Clerk so we will have to send you a copy in a future mailing. In the hope that

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they may give you a little more of the flavor of the situation, as well as what we consider to be reasonably accurate and informative reports on the Oral Argument, we have reproduced and are enclosing herewith copies of a Wall Street Journal article and a Journal of Commerce article from the December 16 editions of these publications.

In our last letter we enclosed a copy of that portion of the Brief for Respondents which detailed the OSHA plan to consider temporary variance orders if complete applications therefore were received at OSHA by December 23, 1974. Shortly after the letter was sent, we received a letter from Secretary Stender formally denying our request for a Stay and repeating the "offer" of expedited action on variances in lieu thereof.

In response to arguments raised in our Reply Brief designed to counter the Department of Labor's "offer," Government Counsel presented this letter--which, incidentally, we consider wholly unresponsive to our November 5 Petition for a Stay filed with OSHA, and to the similar requests filed by other Petitioners subsequently--to the Court during Oral Argument. Fortunately, the Court did grant our Motion for a Stay, however, so we now consider the Stender letter moot, as well as somewhat inscrutable. A copy of the letter from Secretary Stender is enclosed as a matter of interest.

As a follow-up, we promised in our last letter to send you a copy of the Federal Register Notice announcing the Secretary's "offer" to consider temporary variances. As of this writing, that document has not yet appeared in the Federal Register. If it does appear, it, too, would seem moot now, in light of the Stay granted by the Court.

On a related matter, you will recall that the Coast Guard is working on final regulations pertaining to shipments of vinyl chloride monomer on tankers or other vessels under Coast Guard jurisdiction. These regulations were expected to mandate the same limits that OSHA set. We notified the Coast Guard of the Stay

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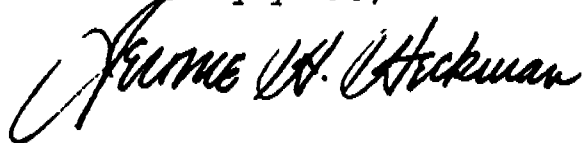
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this week, and we believe that it will now hold up any final regulation, at least in the form originally anticipated, until the U.S. Court of Appeals has ruled upon OSHA's Standard.

There is nothing definitively new to report on the FDA front except that some of you have informed us of letters that you have been sending to the agency. We cannot yet predict with certainty what effect they are having, but we now have reason to be hopeful that FDA may be shifting its ground again, this time in more reasonable directions.

As we have been doing, we shall continue to attempt to keep you informed on all aspects of the vinyl chloride monomer problem. It is highly unlikely that there will be occasion for another letter from us before December 25, however, so please let us take this opportunity to wish you and yours the merriest of Christmases and the happiest of New Years.

Cordially yours,

A handwritten signature in dark ink, appearing to read "Jerome H. Heckman". The signature is fluid and cursive, with the first name "Jerome" being the most prominent part.

Enclosures