



file
INTER-OFFICE CORRESPONDENCE

To: Dr. Z. G. Bell, Jr.
19 East

Date: December 13, 1974

From: Dennis E. McArdle

Location: 12 North

Subject: VCM and PVC Producers
Group Meeting-Mayflower
Hotel-December 6, 1974

*NOTE
C. G. Bell
S. G. Bell
Petition
Relief Dec 16-74*

Due to an irreconcilable conflict in Mr. F. J. Trunzo's schedule, I attended the VCM and PVC Producers Group Meeting in Washington on December 6, 1974. At the meeting, it was reported that SPI's Petition to Stay the Order of OSHA with respect to new respiratory protective equipment to become effective January 1, 1975, will be heard before a three-panel court on Friday, December 13, 1974, at 10:30 a.m. in the United States Courthouse, Foley Square, New York. Basically, SPI's argument will be made in three parts:

1. Feasibility - Since the Secretary cannot prove that a level below 50 parts per million is unsafe, then to set a level below 50 parts per million is not feasible;
2. The proposed solution is not a solution - Can industry secure a work force willing to use respirators especially in light of the Secretary's inability to support his argument that respirators are needed to protect the work force from levels below 50 parts per million;
3. Vagueness - The Secretary has mandated that industry reach the lowest level feasible, however, what is it?

If the Court remands the proposed regulations of the Secretary, the emergency standard will apply. However, if the Court fails to act on SPI's petition by January 1, the new standard will control. This raises the question as to whether or not PPG has applied for a variance from the OSHA standard based on the unavailability of the type of respirator required by the proposed standard. If not, I recommend that we proceed with filing the aforesaid variance to protect the working operations of our manufacturing facilities.

It has also been rumored that NIOSH will approve a canister type respirator without indicator light sometime during December.

To date FDA has not published a proposed regulation. When published, all interested parties have sixty days to comment on the

Dr. Z. G. Bell,
December 13, 1974
Page 2

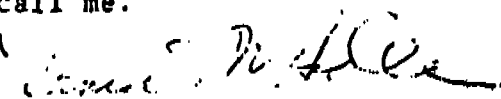
proposed regulation. Although no regulation has been published, at the present time FDA is considering limiting the PVC residual on the surfaces which come in contact with food. Allegedly, this proposal is approximately one month away from official publication. SPI recommended that a concerted effort be made to contact the FDA to illustrate the improper direction of the regulation since the matter to be controlled is the actual migration of PVC into food substances.

Presently, EPA is considering a regulation regarding the emission of VCM. It has two alternatives under its authorizing statute. Under Section 111, VCM would be termed "somewhat hazardous" and the actual regulation would be left to the states where such factors as technological feasibility, cost and ecology could be considered in setting the standard. Under Section 112 of the Clean Air Act, VCM would be termed "really hazardous" where the standard would be established by the EPA requiring industry to "assure safety with adequate margin of safety". In this instance, industry would have the burden of proof with respect to the safety of VCM. According to SPI personnel, the EPA presently intends to proceed under Section 112 but to read into the Section 111 considerations of technological feasibility, cost and ecology. This legislative interpretation would make the EPA standard vulnerable to attack by public interest groups as those encountered in the lead additive cases. Although the standard is not imminent, it can be expected between February of 1975 and the following six months.

I have enclosed the following documents for your edification:

1. Meeting agenda,
2. Financial Status,
3. Report of the Public Affairs Committee, VCM-PVC producers Committee,
4. News releases of the SPI with respect to its Petition to Stay of the OSHA Order.

If you have any questions with respect to these matters or the enclosures, please feel free to call me.


Dennis E. McArdle
Attorney

DEMCA:mpf
Attachments

cc: Messrs. F. C. Dehn (w/attachments)
T. Z. Korsak (")
E. J. Trunzo (")
M. G. Slaney (")

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