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July 22, 1983

Dr. Roy T. Gottesman
The Society of the Plastics
Industry, Inc.
355 Lexington Avenue
New York, New York 10017

Re: EPA Enforcement Policy

Dear Roy:

As we discussed on July 20, the Environmental Protection Agency (EPA) is planning to respond to Judge Parker's decision invalidating the relief valve and manual vent discharge provisions of the vinyl chloride standard by instituting civil litigation against all Louisiana vinyl chloride monomer (VCM) and polyvinyl chloride (PVC) producers. This should be a topic of discussion at the joint meeting of the Manufacturing Practices Committee and the Legal Committee on August 4, 1983. At that time, we would like those interested to consider whether we can enlist the aid of Gary Baise of Beveridge & Diamond, for meetings we would propose to hold with EPA policy-making officials to argue against this policy and the filing of more of these cases.

By way of background, on July 1, 1983, United States District Court Judge John V. Parker dismissed an action EPA brought against Ethyl Corporation. Judge Parker held that the relief valve provisions of the vinyl chloride standard were "work practice" requirements that EPA lacked authority to promulgate in 1976. Initially, we saw two options for EPA. EPA could appeal Judge Parker's decision and seek to uphold the validity of the current standard. Concurrently or independently, the Agency could also repromulgate the vinyl chloride standard. Repromulgation would end any question concerning the Agency's authority to regulate relief valve discharges after repromulgation but would not have retroactive effect giving them authority to regulate discharges prior to repromulgation.

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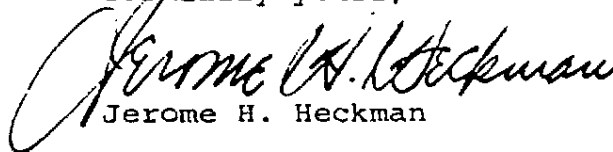
Dr. Roy T. Gottesman
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We were surprised to learn that the Agency has adopted a rather bizarre strategy of attempting to file as many actions as possible against VCM and PVC producers in Louisiana to pressure Judge Parker into reversing his decision. This information is based on independent reports from the EPA staff in Region VI (which includes Judge Parker's district in Louisiana) and an attorney in the Land and Natural Resources Division of the Justice Department working on this matter. EPA advised that future complaints will attempt to cite violations of provisions other than the relief valve discharge section in an effort to retain a toehold in court if Judge Parker dismisses the portions of the complaint dealing with relief valve discharges. Since July 1, two cases have been filed in Louisiana against Vinyl Institute members. We expect more cases to be filed shortly.

This EPA strategy obviously received approval from policy-making officials within the Agency. It seems to us that the appropriate action for the Vinyl Institute would be to authorize us to meet with policy-making officials in Region VI and EPA headquarters in Washington. The goal would be to stop the filing of additional complaints and perhaps stay proceedings on the recently filed cases pending an appeal of Judge Parker's decision.

By copies of this letter to members of the Vinyl Institute, and in accordance with your instructions, we are advising that this will be a topic of discussion at the joint meeting on August 4 in our offices. In the interim, if you have any comments or questions, please feel free to contact us.

Cordially yours,



Jerome H. Heckman

cc: SPI Vinyl Institute
SPI Vinyl Institute Manufacturing
Practices Committee
SPI Vinyl Institute Legal Committee