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Plastics Corner

SPI Petitions Federal Court of Appeals For Stay of OSHA Standard

Here is a run down on the legal maneuvering in the case of SPI versus OSHA.

Originally, The Society of the Plastics Industry on Oct. 1 sought a judicial review of the OSHA order, which had been announced that very day.

Next, seeking administrative relief, the SPI on Nov. 5 asked OSHA to postpone the effective date of the standard. OSHA's subsequent silence has been interpreted negatively.

The latest step, taken on Dec. 3, was for the SPI to ask the United States Court of Appeals for the Second Circuit to stay the OSHA order, pending the decision of the court on the terms of the order on exposure to vinyl chloride.

The OSHA standard, which requires new respiratory protective equipment, would go into effect Jan. 1, 1975. Oral arguments on the case are scheduled before a three judge panel of the court of appeals on Dec. 13, 1974.

The stay has been requested because there is no possible way to supply the required numbers of respiratory protective equipment by the end of the year. This would have the practical effect of requiring many plants in the United States producing vinyl chloride monomer and polyvinyl chloride resin to close down on Dec. 31, 1974.

In its petition, SPI also pointed out that much of the equipment specified for worker use has not yet been approved by the National Institute of Occupational Safety and Health (NIOSH), nor is it likely to be by Jan. 1.

According to SPI, the respirator supply today "is only 26 per cent of current demand with optimum supply being only 78 per cent of current demand." SPI said these figures were prepared solely for the vinyl chloride monomer and polyvinyl chloride resin manufacturers and do not reflect additional demands which might be made by processors, fabricators and other segments of the industry affected by the OSHA standard.

In its petition to the court of appeals, SPI noted that it had similarly petitioned OSHA on Nov. 5, 1974, but, to date, OSHA has neither acted upon nor acknowledged their application for a stay.

In summary, SPI said the standard is, "beyond the compliance capabilities of the industry."

The case is listed as No. 74-2281. The SPI is the petitioner, and the respondents are the Occupational Safety and Health Administration, United States Department of Labor; Peter J. Brennan, secretary, Department of Labor, and John Stender, Assistant Secretary for Occupational Safety and Health. Firestone Plastics Company, a division of the Firestone Tire & Rubber Company is an intervenor, as is the Industrial Union Department, AFL-CIO. The attorneys for the petitioner are Martin

L. Shelton of Shea, Gould, Climenko & Kramer of New York, and Jerome H. Heckman of Keller and Heckman, Washington. Also of counsel are Joseph E. Hadley and Peter Thomas Smith of Keller and Heckman.