

SFR

JOSEPH E. KELLER
JEROME H. HECKMAN
CHARLES M. MEEHAN
WILLIAM H. BORGHESE, JR.
ROBERT R. TIERNAN
WAYNE V. BLACK
DAVID L. HILL
MARTIN W. DERCOVICI
EDWIN B. SPIEVACK
PETER M. NEMKOV
JOSEPH E. HADLEY
CAROLE C. HARRIS
WILLIAM W. PUGH

LAW OFFICES
KELLER AND HECKMAN
1150 17TH STREET, N.W.
SUITE 1000
WASHINGTON, D.C. 20036

G. P. R.

MAY 31 1974

TELEPHONE
202 296-2100
CABLE ADDRESS "KELMAN"

May 28, 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);
Plastic Bottle Division
(Voting Representatives);
SPI Executive Committee;
SPI Public Affairs Committee;
VC and PVC Producers
Committee

M. S. J.

MAY 30 1974

Ladies and Gentlemen:

The major news this week involves the announcement by the Occupational Safety and Health Administration (OSHA) that it will hold an "informal Hearing" starting on June 25, 1974 in connection with the proposed occupational exposure standard for vinyl chloride. A copy of the Notice which was published in the Federal Register on May 24, 1974 was sent to you by means of our special letter on the same date. All interested parties who will be significantly affected by the proposed standard should certainly consider participating in the Hearings. If any of you propose to do so, you should notify Ms. Joanne Goodell, Attn.: Docket OSH-36, Occupational Safety and Health Administration, 1726 M Street, N.W., Room 200, United States Department of Labor, Washington, D.C. 20210, of such intention no later than June 17, 1974.

Despite the fact that this letter is going to the extensive mailing list indicated by the salutation, to avoid

ASI-PR 0003207

duplication in the mailing process, and also so that as many as possible who might have an interest will be informed, we are hereby noting that the "time framework compression" effected by the release of the OSHA Hearing notice on May 24 has resulted in a change in our planning as far as the handling of an SPI presentation at the OSHA proceedings is concerned. More specifically, after extensive discussions with Ralph Harding, Tom McGrath and others over the week-end, we have decided to use the following "game plan" in lieu of the original proposals to (1) file Comments by June 10 after approval of the VC and PVC Producers Committee at its next meeting on June 5, (2) file specific point-by-point objections to portions of the vinyl chloride permanent standard proposal and a request for a Hearing, and (3) request any sort of time extension on any phase of the procedure:

1. Instead of preparing and circulating a draft set of Comments to the VC and PVC Producers Committee by mailing such a draft on May 30, we are now converting the draft into a position paper for discussion at the June 5 meeting. Hopefully, this will facilitate resolving differences of opinion about the basic approach SPI will adopt for the OSHA Hearing. This position paper will be distributed at the June 5 meeting instead of being pre-circulated. Although this may present some slight inconvenience, occurrences since the last session of the OSHA Subcommittee of the VC and PVC Producers Committee have led us to the conclusion that this would be the best procedure to follow. Aside from our own feelings in this respect, we have received instructions from Ralph Harding and Tom McGrath to follow this plan as the one most likely to facilitate resolution of any differences of opinion. The reasons for this conclusion are not readily susceptible to explanation in a letter of this type but those directly involved can be assured that a full explanation will be provided on June 5.

2. At the June 5 meeting, it is our hope that witnesses for the Hearing can be selected, assignments for the preparation of testimony can be made, and the preparation of written statements can then move forward very promptly. If the situation develops as hoped, the time-table will still be very tight but the objective will be to have an integrated SPI position to enunciate to OSHA beginning on June 25.
3. At the June 5 meeting, in lieu of any other formal pleadings, we will also plan to have available a draft of the type of "notice of intention to appear" called for by the May 24 Federal Register announcement. This draft will have to have a number of blanks filled in but we would certainly think that it can be completed on the basis of decisions made at the June 5 meeting so that it can be filed on SPI's behalf by, or well in advance of the June 17 deadline.

As you know, it is the intention of the Committee to present data and arguments to demonstrate that a "non-detectable" level of vinyl chloride in VC and PVC plants is technologically infeasible, would be economically disastrous, and that the health and welfare of employees would be fully protected if exposures to vinyl chloride were kept below a feasibly attainable level. To this end it is planned to present engineering experts to testify as to what is technologically feasible, economic analyses to demonstrate the results to be anticipated if all VC and PVC plants were forced to shut down because they could not meet the standard, and health experts to present evidence demonstrating that employees would not be subject to any undue risk were the permitted level of vinyl chloride in plants set at a technologically feasible level.

Of great importance to the VC and PVC Committee's presentation will be the submission of data and expert testimony demonstrating that the various PVC processors need not be subject to the proposed standard, and that operations

in processing plants are such as to pose no significant problems of employee exposure to vinyl chloride except in very limited areas where the exposure can be completely controlled by proper design and work practices.

Finally, it is planned to present data and recommendations regarding test methodology.

In connection with the Hearing, each individual company or organization that will be affected by the proposed standard should consider asking for time to present its information and views orally at the Hearing or presenting them in writing at any time until the Hearing record is closed. Since any such party may have information that is not available to the VC and PVC Committee as a whole this could be a valuable addition to the Hearing record; in any case, we believe it is most important for OSHA to know how many parties are concerned that the standard to be set strike a balance between employee safety and feasibility.

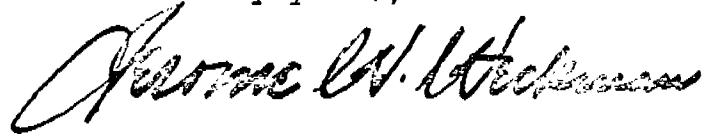
Turning now to the Food and Drug Administration's activities that affect polyvinyl chloride, our most recent information from that agency is that a final draft of the anticipated proposed Interim Regulation is now being circulated among Staff members and that its publication in the Federal Register can be expected soon. The latest word is that the Food and Drug Administration is again leaning toward some kind of limitation on residual monomer content in the food contact surface of PVC plastics, as well as setting a criterion of no detectable migration of VCM to food simulating solvents using a procedure sensitive to 50 ppb.

As far as EPA activities are concerned, nothing formal has yet been announced but, as you all are well aware, EPA has various groups making measurements of vinyl chloride concentrations in air, water and solid waste streams. Indicative of some of the EPA activity and the type of press coverage this activity is receiving is an article from Sunday's Washington Post, a reproduction of which we are enclosing. Although we are not aware of any specific inaccuracies in the story, the implication that the level of vinyl chloride present in the air is likely to cause cancer in the general population certainly appears to far outstretch any evidence of the hazard.

- 5 -

We shall continue to follow and report to you on the various activities of the regulatory agencies and those of others interested in the vinyl chloride-polyvinyl chloride problems and their solutions.

Cordially yours,

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

Enclosure

ASI-PR 0003211

Study of Vinyl Chloride

EPA Cancer Data Being Withheld

From News Dispatches

HOUSTON, May 1. —Data from a study of the concentration here of a potentially cancer-causing chemical is being withheld because of possible criminal prosecution, according to federal officials.

As part of an Environmental Protection Agency study of vinyl chloride, air samples are being collected near chemical plants along the Houston Ship Channel to determine the concentration of the chemical in the atmosphere.

An EPA lawyer in the agency's Dallas regional office said Friday that the results of the Houston study would be withheld because the study

"represents the investigation files of a law enforcement agency" and polluters releasing the gas could be subject to prosecution.

At least 12 deaths in the United States and elsewhere have been linked to vinyl chloride gas. It is suspected as a cause of a form of liver cancer, angiosarcoma.

The EPA attorney, Jim Collins, said the information was being withheld at the instruction of George Marcenthal of EPA headquarters in Washington.

The information would be released only after evaluation and possible legal disposition, Collins said.

The EPA vinyl chloride

team is testing for the chemical at 10 plants around the country, including those in Houston. Dr. Glenn E. Schweitzer, head of the EPA team, said an estimated 200 million pounds of the gas escapes annually into the atmosphere in the United States.

Meanwhile, in Akron, the president of B.F. Goodrich's Chemicals Division raised the spectre of massive job losses in a critique of the proposed new Occupational Safety and Health Administration standards for worker exposure to vinyl chloride.

"The proposed standard of no detectable level of exposure does not appear to be possible with the current state

of technology," Anton Vittone said, "And, if imposed, could displace not only the 6,500 vinyl chloride monomer and polyvinyl chloride production workers, but also hundreds of thousands of other employees in the companies which use PVC."

Vittone said about 100 scientists and others are working six to seven days a week in a multimillion-dollar effort to reduce employee exposure to vinyl chloride.

Five of the reported vinyl chloride deaths were among former employees of Goodrich's plant in Louisville. Two cases were reported among living employees there.