

bcc: HF Dubec
DL Lull
RD Luss
JA King
Vinyl Institute

Occidental Chemical Corporation

September 24, 1986

EPA RCRA Docket (S-212)
U.S. EPA (WH-562)
401 M Street SW
Washington, DC 20460

SEP 29 1986

Re: Docket No. F-86-TC-FFFFF

Gentlemen:

On behalf of the Pottstown plants of the Occidental Chemical Corporation (OxyChem), a division of the Occidental Petroleum Corporation, we welcome this opportunity to comment on issues raised in EPA's proposal to expand the Toxicity Characteristic in Part 261 of Subtitle C of RCRA published in the Federal Register on June 13, 1986, 21648.

Specifically, we are greatly concerned with the threatened, enormous cost impact on the Polyvinyl Chloride (PVC) Resins plant and the PVC Fabricated Products plant by the inclusion on the characteristic list of Vinyl Chloride (VC) at a regulatory limit of 0.05 mg/l, an unreasonably low and unsupportable level in our view.

DEFICIENT REGULATORY IMPACT ANALYSIS:

The Agency states that its final Regulatory Impact Analysis (RIA) will accompany promulgation of the regulation. We object to this reversed procedure and maintain that EPA's analyses of benefits and costs must be well-based and should be published in time for review and comment by the regulated public before promulgation of rules.

FAILURE TO INCLUDE WASTE WATER IN COMPLIANCE COSTS:

That the Agency has been premature in proposing these rules without a well-based RIA is shown by its not having taken into account the costs of compliance associated with the vast new universe of RCRA management of waste waters which apparently will now be regulated. In the PVC producing industry, practically all of the many individual process effluent streams will now become Hazardous Wastes. Many small generators, not now regulated, will become large generators. Many waste water treatment and storage tanks and surface impoundments will have to be retrofitted and otherwise made suitable to qualify for RCRA permits. An adequate study for EPA's proper analysis of these costs would require several months of effort, but this should have been done before promulgation.



PVC Resins/PVC Fabricated Products/Specialty Plastic Products

Armand Hammer Boulevard, Box 699, Pottstown, Pennsylvania 19464 215/327-6400

SPI-12128

Occidental Chemical

-2-

We would remind the Agency of Guidelines, already proposed on July 17, 1985, (50 FR 29068) for the Organic Chemicals and Plastics and Synthetic Fibers (OCPSF) industries, which would limit in waste waters many of the same organic pollutants in this proposal and at significantly lower levels. Although this 1985 pretreatment standard has not yet been promulgated, it is evident that VC in waste water will be strictly limited. To now have these streams also regulated under the RCRA umbrella is needlessly redundant and will impose unnecessary new burdens on both the PVC industry and the Agency.

Finally, on waste waters, EPA has created the paradox of requiring RCRA management of minimal leakage into ground water and discharges to POTW's, but, at the same time, allows surface discharges of far greater volumes having the same and even greater concentrations of the candidate pollutants under the NPDES exemption.

FAILURE TO FORESEE EFFECTS ON PVC PRODUCT RESINS:

Another cost impact, overlooked by the Agency, is an unforeseen consequence of the extremely low regulatory limit for VC. This will be imposed on both PVC Producers and PVC Processors in the management, as hazardous wastes, of resin products when these are spilled or otherwise rendered unfit for use. Although we have no accurate estimate of the quantity of these wastes, we believe the compliance costs will be significant and disproportionately high for disposal in RCRA landfills instead of the currently-used Subtitle D landfills. Some measure of the cost impact can be seen, for example, from two quotations received by the Pottstown plant for disposal of PVC sludge in an RCRA landfill, \$420,000 and \$540,000 per year, vs. the current cost of \$150,000 for disposal in an Industrial Waste Landfill under State Permit.

The potential exposure to EPA's proposed regulation of perhaps a substantial part of the product resins manufactured by PVC Producers and used by PVC Processors will add an even greater burden for these industries in the seemingly rather simple exercise of characterizing these resin wastes under the proposed Toxicity Characteristic Leaching Procedure (TCLP) for VC. "Fresh" product resin coming off a dryer may contain a few PPM of VC which will be extracted out in the proposed TCLP above the threshold concentration of 0.05 mg/l identifying that resin, as waste, as a Hazardous Waste. However, from that point in the path of movement of the resin, first into warehouse or silo storage and then in transport to the customer's facility, the initial residual concentration is progressively reduced as VC escapes through the paper or cardboard container or from the silo system. At some indeterminate stage, the VC residual will reach a concentration low enough so that the regulatory limit will not be exceeded in the TCLP. Establishing at just what point this takes place will be a monumental and continuing task considering all the variables of resin types, drying conditions, periods and methods of storage, transport distances, and end processing. Worse still for PVC Producers is the possibility of a shrinking market when PVC Processors may choose to substitute other materials for PVC resins rather than suffer the costs and complexities of operating in the RCRA system.

SPI-12129

Occidental Chemical

-3-

A proper study of these costs, which the Agency has failed to consider, will require several months of effort; but this should be done for the development of a credible RIA.

LACK OF DEMONSTRATED HEALTH OR ENVIRONMENTAL BENEFITS:

With the realization of the tremendous cost impact the proposed rules will have on OxyChem and the rest of the PVC industry, we have searched in vain in the notice for EPA's showing of an overriding current or future health or environmental need for protection against any risk from exposure to VC. We maintain that VC is already, and will be additionally, adequately controlled under the OSHA Standard, NESHAP, the Clean Water Act, the Safe Drinking Water Act, the Toxic Substances Control Act, and FDA.

The Agency has stated that VC was included on the expanded list only because it had data which could be used in a specific ground water migration model to calculate a regulatory limit. This was the same scenario used in the land ban proposal and has now been abandoned as inappropriate by EPA. With this reinforcing the absence of any health or environmental problem, EPA has a very dubious case for including VC in this proposal.

Not only has the Agency failed to make a case for the need for this proposal to further regulate VC, and overlooked a major part of the cost impact on the regulated community, but it has adopted a highly questionable scenario of perceived "mismanagement" of VC-containing wastes, including waste waters and product resins, when these are disposed of on Subtitle D landfills. Vinyl Chloride, and the other candidate pollutants, are then assumed to become infinite sources of contamination, to leach from a landfill and migrate, undiminished in concentration, 500 ft. down-gradient to one water well whose user would consume 2 liters per day of water from this same well for a period of 70 years. We maintain that the health risk from ground water contaminants is the combination of the risk of a pollutant's migration to the point of consumption and the health risk associated with the dosage of the pollutant on the potentially-affected community rather than a lone well water user. EPA has used landfill leaching and ground water transport movement of very low probability of occurrence and has presented no credible health risk data for even the lone well user, let alone a potentially-affected community.

In its use of "infinite source," EPA has chosen a poor concept and has not considered, in the case of VC, the very small quantities of the source chemical available in the wastes from typical plants. We refer the Agency to the separately-submitted comments of the Vinyl Institute which we support and partially summarize here:

The migration from a Subtitle D landfill to the lone well user of 2 lbs. of VC per year in the resin waste from a PVC Processor using 100 million lbs. year;

The discharge to surface water or to a POTW of 15 lbs. of VC per year in the waste water from a PVC Producer of 150 million lbs. per year.

Occidental Chemical

-4-

Similarly, the Agency has not calculated "the numbers" in adopting a Reportable Quantity for VC of one lb. under CERCLA. Again, referring to the comments of the Vinyl Institute:

A PVC Producer (or Processor) would have to spill 500,000 lbs. of resin over 24 hours; and a PVC Producer would have to spill 2.4 million gallons of waste water over 24 hours to release one lb. of VC.

We urge EPA to use the TCLP to restrict the disposal of specific wastes in Subtitle D landfills rather than overregulate the PVC and other industries affected by the expansion of the Toxicity Characteristic list.

OCCIDENTAL'S OTHER CONCERNS:

EPA has not allowed sufficient time for the regulated community to adequately determine its position under the proposal in order to make properly-informed comments. The also-proposed TCLP test itself is cumbersome, complex, and costly and, from initial results and EPA's own admission, lacks precision and reproducibility. Our comments, therefore, have to be made from spot-checking rather than fully-characterized analyses.

We are also concerned with the Agency's allowing only 6 months for compliance after promulgation. It is only after promulgation, when all final requirements are known, that the necessary comprehensive characterizations of products, wastes, and waste waters can begin. Completion of this study will be lengthy, but this is mandatory before the many other required steps can be taken: Engineering; equipment selection, procurement, and installation; training of a sizable body of the work force; administrative requirements; etc. Such pressured activities, essentially crash-programs, inevitably lead to errors and higher-cost decisions which can be avoided in a more orderly planning and decision-making process.

RECOMMENDATIONS:

We urge EPA not to further regulate Vinyl Chloride as proposed on June 13, 21648. Instead, we recommend that the Agency determine what health and environmental hazards may be evident from well-based studies, including the human experience, from exposure to the chemical. If there is then a demonstrated need for further regulation, we ask that the Agency determine the full costs for the potentially-impacted community.

We appreciate the opportunity to comment on EPA's proposal and wish to also hereby support the separately-submitted, written comments of the Vinyl Institute, a division of the Society of Plastics Industries, and the Chemical Manufacturers' Association.

Sincerely,



K. H. Garner
Works Manager

KHG:p11

SPI-12131