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CARL EARDLEY
OF COUNSEL

CABLE ADDRESS
"INDLAW"

January 30, 1978

BY HAND

Rich Biondi
Enforcement
Environmental Protection Agency
401 M Street, S.W.
Room 3203
Washington, D.C. 20460

Dear Mr. Biondi:

Per your request, I am writing to summarize the telephone discussions this office has had with you on January 23 and January 25, 1978, relating to the development of EPA's policy for enforcement of the national emission standard for vinyl chloride.

You indicated that EPA will be testing all vinyl chloride sources upon expiration of their waivers. Inspections will be conducted in turn, the timing depending on regional priorities and analyses of the reports of incremental progress furnished by companies pursuant to waiver conditions. As a matter of policy you expect that inspection will be preceded by notice to the affected companies.

We understand that EPA interprets the Clean Air Amendments of 1977 as generally requiring enforcement of hazardous emission standards by civil action under Section 113(b) of the Clean Air Act, without prior issuance of notices of violation or administrative compliance orders as authorized in Section 113(a). The agency at this time apparently has no particular policy regarding whether to seek an injunction, fine or both under Section 113, and will decide which remedies are appropriate on a case by case basis.

You advised that no formal guidelines have been issued to regional administrators instructing them on EPA policy for post waiver enforcement of the vinyl chloride standard, nor do you anticipate at this time that there will be any formal guidelines. However, various memoranda have been sent by EPA in Washington to the regions discussing the impact of the 1977 Amendments; none of the memoranda apparently are directed to Section 112 issues specifically.

COLORITE 019328

Rich Biondi
January 30, 1978
Page 2

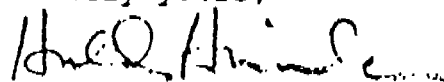
You further advised that EPA has no current plans to begin utilizing Section 120 of the Clean Air Act, which authorizes noncompliance penalties as of 1979 to promote compliance with Section 112.

Finally, you stated that you were unaware of any state having EPA-approved authority to enforce the vinyl chloride standard.

Per our understanding, I will try to reach you by telephone on Wednesday to confirm that I have correctly interpreted your comments, because, as I mentioned, I will be forwarding them on to the Society for the Plastics Industry.

Thank you for your continued cooperation.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Harold Himmelman", written in a cursive style.

Harold Himmelman



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

RECEIVED
FEB 13 1978

OFFICE OF ENFORCEMENT

Harold Himmelman
Beveridge, Fairbanks & Diamond
One Farragut Square South
Washington, D.C. 20006

Dear Mr. Himmelman:

I have received your letter of January 30, 1978, discussing several aspects of EPA's policy for enforcement of the national emission standard for vinyl chloride. In order to provide a more accurate view of our enforcement policy, I would like to clarify several statements made in your letter.

In paragraph 2 you state that as a matter of policy inspections will be preceded by notice to the affected companies. Such notice is not required to be given and therefore should not be considered a matter of policy, although in most cases notice is generally provided.

Paragraph 3 states that EPA has no particular policy regarding what type of action to seek under Section 113 and will decide this on a case by case basis. At this point, it appears likely that EPA will develop a policy requiring both a fine and an injunction for enforcement of the hazardous pollutant emission standards.

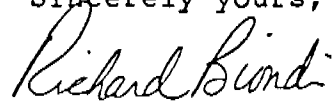
With respect to noncompliance penalties, discussed in paragraph 1 on page 2, the Act requires that after 1979 non-compliance penalties be assessed and collected from sources in violation of an emission standard established under Section 112 of the Act.

Finally, we have recently delegated the authority for enforcement of the vinyl chloride standards to the South Coast Air Quality Management District in California and to the Clark County District Health Department in Nevada. We expect that additional States and local agencies will be requesting this authority in the near future.

COLORITE 019330

If you have any further questions, please feel free to
contact me.

Sincerely yours,

A handwritten signature in cursive script that reads "Richard Biondi". The signature is written in dark ink and is positioned above the typed name.

Richard Biondi
Division of Stationary
Source Enforcement

DATE FEBRUARY 1 19 78

NAME OF PAYEE <u>N.J. DEPT. OF ENVIRONMENTAL PROTECTION</u> ADDRESS OF PAYEE <u>PO Box 8807</u> CITY <u>TRENTON, NJ</u> STATE <u>08625</u> ZIP CODE			APPROVALS ORIGINATOR <u>J.R. [Signature]</u> DEPARTMENT HEAD <u>[Signature]</u> OFFICER _____ TREASURER'S DEPARTMENT _____		
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	Div.	Loc.	D.P.	C.C.	Account			Dollars	Cents
CONSTRUCTION PERMIT APPLICATION FEE									
- INCUBATORS: FLEMING TOWN								80	00
AMOUNT OF CHECK (WRITE) \$ <u>Eighty and 00/100</u>							GROSS AMOUNT		80 00
PAYEE OR VENDOR NUMBER	VOUCHER NUMBER					DISCOUNT (IF ANY)			
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