



Received By
EGD Docket Clerk

Date: DEC 16 1985

ATTACHMENT -

December 12, 1985

R&S 029167

Mr. E. H. Forsht
Industrial Technical Division (WH-552)
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Attention: ITD Docket Clerk
Organic Chemicals, Plastics
and Synthetic Fibers (OCPSF)
Rules

Dear Mr. Forsht:

The Vinyl Institute, a division of the Society of the Plastics Industry, Inc.^{*/} submits these comments on the effluent limitations guidelines rulemaking for the organic chemicals, plastics and synthetic fibers (OCPSF) point source

^{*/} SPI, the major national trade association of the plastics industry, is a Corporation organized under the Not-for-Profit Corporation Law of the State of New York. Its 1,700 member companies and individuals and 49 operating units include those who supply raw materials; process or manufacture plastics or plastics products; and engineer or construct molds or similar accessory equipment for the plastics industry. The majority of SPI members are the processors and converters of plastic resins into end products which represent 75% of the dollar volume sale of plastics in this country.

Members of the Vinyl Institute include Air Products & Chemicals, Inc., The BFGoodrich Company, Borden, Inc., Certain-Teed Corporation, The Dow Chemical Company, Georgia Gulf Corporation, Occidental Chemical Corp., PPG, Inc., Shell Chemical Co., Tenneco, Inc., and VISTA Chemical Company. Members of the Vinyl Institute account for approximately 72% of the domestic production of vinyl chloride and 76% of the domestic production of polyvinyl chloride. These comments were prepared by the Institute's Manufacturing Practices Committee. The Vinyl Council of Canada is a Special Member of the Institute. ICI Europe Ltd. Petrochemicals and Plastics Division is an Associate Member.

A Division of

THE SOCIETY OF THE PLASTICS INDUSTRY, INC.

355 LEXINGTON AVENUE • NEW YORK, N.Y. 10017 • (212) 503-0600

category. 50 Fed. Reg. 29,068 (July 17, 1985). Our comments are directed particularly at the proposal to institute in-plant stripping requirements for vinyl chloride and 1,2-dichloroethane, but the principles discussed here are applicable to the entire question of in-plant control technologies that may require non-biological pretreatment. We oppose these additional requirements because the Environmental Protection Agency (EPA) lacks authority to impose such requirements under the Clean Water Act, and because no data in the Federal Register Notice provides a reason for believing that these requirements will produce a health-based benefit.

R&S 029168

**I. THE CLEAN WATER ACT PROVIDES NO AUTHORITY
FOR THE PROPOSED ACTION**

The original 1983 proposal cited the Clean Water Act as the basis for the Agency's authority to develop and enforce the rule. 48 Fed. Reg. 11,828 (March 21, 1983). The July 1985 Notice contains no recitation of authority, but, presumably, EPA continues to rely on the Clean Water Act.

Nowhere in the Clean Water Act is there authority for the Agency to impose effluent limitations based on a desire to improve air quality. Title III of the Clean Water Act and Section 307 in particular, which discusses the setting of effluent standards for toxic substances, recite only water quality criteria for the Administrator's consideration. The reference in Section 304(b)(1)(B) to "non-water quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate," means only that EPA should not attempt to remedy water pollution problems by shifting the pollution to another media, such as air or land. The Agency is acting without authority when it proposes effluent guidelines that are based on air quality and that will have no effect on water quality.

**II. THE PROPOSED REQUIREMENT WILL PROVIDE
NO HEALTH OR ENVIRONMENTAL BENEFIT**

A fundamental prerequisite for an administrative action is the demonstration that a need exists for permissible Agency action and that the course of action chosen by the Agency is

Mr. E. H. Forsht
December 12, 1985
Page 3

responsive to that need. If these criteria are not satisfied, the agency's action will be deemed unreasonable, arbitrary and capricious. 5 U.S.C. §706. In addition to these basic requirements, Executive Orders 12291 and 12498 require that regulations provide some net positive benefit. 46 Fed. Reg. 13,193 (Feb. 19, 1981); 50 Fed. Reg. 1,036 (Jan. 8, 1985). EPA's proposal fails all three of these tests. No need is shown for the reduction claimed to occur because of this added requirement, nor is any benefit shown. The proposal conflicts with the two Executive Orders as well as basic concepts of administrative law.

The July 1985 Notice shows that the effluent concentration of 1,2-dichloroethane is expected to be lower (nominally 10 ppb or actually non-detectable) under Option I (Table D-1), which uses biological treatment only, than under Option II (Table D-2) (13.4 ppb), which uses biological treatment plus in-plant pretreatment. Thus, the data presented indicate that the proposed pretreatment would actually be counterproductive and not lower the amount of 1,2-dichloroethane which would be discharged into the waterways.

The Agency already has a very strict national emissions standard for hazardous air pollutants (NESHAP) for vinyl chloride which regulates closely the emissions from both air and water by ethylene dichloride/vinyl chloride producers and processors. 40 C.F.R. § 61.60-61.71. The Agency recently re-evaluated the vinyl chloride standard and concluded that the major portions, including process emission controls, provide adequate protection to the public. See 50 Fed. Reg. 1,182 (Jan. 9, 1985). Indeed, EPA currently is defending vigorously its authority to retain the current standard and has stressed the absence of any justification for lowering the current emission standard. See Natural Resources Defense Council, Inc. v. United States Environmental Protection Agency, D.C. Cir. No. 85-1150. In that case, the Agency argues that the current standard is adequate and that no further reductions are justified. See Brief of Respondent EPA (filed July 25, 1985). Therefore, we see no basis for another office of the Agency to attempt to contradict EPA's present litigation position in an attempt to impose further restrictions on emissions of vinyl chloride.

R&S 029169

Mr. E. H. Forsht
December 12, 1985
Page 4

A preliminary estimate of the vinyl chloride released as effluent emissions from a world-scale (300 MM lb/yr) PVC plant shows a receptor concentration of less than 0.1 ppb at one-fourth of a mile from the effluent treatment area, at a 1 mph wind speed. This concentration is so low that conventional dispersion models have difficulty predicting the results accurately. That low level certainly is not a concentration which elicits significant health or environmental concerns.

We are aware of the recent "6-Month Study" which led to a complete overhaul of the Agency's air toxic policy last June. We also are aware of the many caveats and conditions warning against literal acceptance of the results which were expressed in that report.

Dr. Bernard Goldstein, the immediate past Assistant Administrator for Research and Development, has called these risk estimates "speculative". However accurate the quantitative aspects may be, the study found that industrial emissions were of far less concern than products of incomplete combustion from automobiles and home heating systems, and of even less concern than airborne chromium dusts and other minor pollution sources. Even if air emissions from industrial sources were of overall concern to the Agency and the Agency has said they are not, effluent-based emissions are only a minor source of air emissions, and are, in the long run, not subject to regulation by Clean Water Act effluent guidelines. The Agency has concluded that this type of problem is more properly addressed at the local level than by a national program of the type proposed here.

R&S 029170

III. THE PROPOSED LEVELS WILL BE UNENFORCEABLE BECAUSE THERE WILL BE NO RELIABLE ANALYTICAL DATA BASE

The original 1983 proposal recognized to some degree the problem of reliable field analysis in the low ppb range, and essentially conceded that 50 ppb is a practical lower limit of accuracy (48 Fed. Reg. 11,839, col. 3). Yet the July 1985 Notice treats 50 ppb as a maximum in many cases and indicates that 10 ppb will be a control level for several substances.

Mr. E. H. Forsht
December 12, 1985
Page 5

We are convinced that the Agency will be unable to enforce a rule dependent upon unverifiable analytical data. Our experience in our laboratories and in those of the major commercial laboratories using EPA's Control Laboratory Procedures is that the Agency was more nearly correct, but still optimistic, in its 1983 conclusion that 50 ppb was a practical limit for testing. We urge the Agency to reconsider its position on this point.

IV. CONCLUSION

We appreciate the opportunity to provide comments on this matter. As stated earlier, we believe that the principles expressed here apply to the pretreatment proposal in general, and we have utilized vinyl chloride as an illustration. In addition, we support the comments filed by the Chemical Manufacturers Association (CMA) in this docket and request that they be given careful consideration.

We would be happy to provide further information if that should be desirable. We urge that the Water Office consult with the Office of Air Quality Planning and Standards to obtain further insight into their position on the regulation of vinyl chloride.

Very truly yours,

Roy T. Gottesman

Roy T. Gottesman
Executive Director

R&S 029171