

Attachment 2

(202) 457-1110

March 29, 1982

Geoffrey O. White
Office of Management and Budget
Room 3228
New Executive Office Building
726 Jackson Place, N.W.
Washington, D.C. 20530

Re: Comments on EPA Survey Data for Revision of the
Vinyl Chloride Standard

Dear Mr. White:

The Environmental Protection Agency (EPA) has requested that the Office of Management and Budget (OMB) approve letters requesting information from approximately 30 polyvinyl chloride or vinyl chloride producers under section 114 of the Clean Air Act. The nominal purpose of these section 114 letters is to obtain information necessary for EPA's review of the vinyl chloride standard.

The Society of the Plastics Industry, Inc. (SPI) appreciates this opportunity to comment on EPA's request. We agree that certain provisions of the vinyl chloride standard must be revised. Nonetheless, this particular request for information by EPA is unnecessary because it overlooks those provisions of the standard which need amendment, duplicates information

DTH 000030487

previously given to the Agency and ignores our offers to voluntarily provide information without the need for resorting to the use of EPA's authority under section 114 of the Clean Air Act.

By way of background, SPI is a corporation organized under the Not-for-Profit Corporation Law of the State of New York. Its 1,200 member companies and 49 operating units include those who supply raw materials, process or manufacture plastics or plastics products, engineer or construct molds or similar accessory equipment for the plastics industry and engage in the manufacture of machinery used to make plastics products or materials of all types. SPI is the major national trade association of the plastics industry. The majority of its members process or convert plastic resins to end products; this represents 75% of the dollar volume sales of plastics in this country. SPI's membership also represents 95% of all plastics materials and machinery manufactured in the United States. The SPI PVC Safety Group is the operating unit on whose behalf these comments are being filed. It represents the vast majority of the industry governed by the vinyl chloride standard.

The vinyl chloride standard was promulgated by EPA in 1976 under section 112 of the Clean Air Act and is codified at 40 C.F.R. §§ 61.60-61.71. In 1977, EPA proposed amendments to the vinyl chloride regulations. That proposal is still outstanding, and, in our view, should be withdrawn.

The present review of the vinyl chloride standard began in early March 1980. EPA contracted with TRW, Inc. to prepare a review study of the vinyl chloride standard. A copy of the TRW report appears as Attachment 5 to the EPA Support Statement. SPI commented on the draft TRW report in May, 1981, and those comments detail our position on the vinyl chloride standard. A copy of our comments on the TRW draft are attached and they supplement the general remarks we make here.

The proper approach to a review of the vinyl chloride standard is dictated by statutory, executive and judicial guidance. Section 112 of the Clean Air Act, 42 U.S.C. § 7412, provides for national emission standards for hazardous air pollutants (NESHAP) that present a threat of increased mortality or serious irreversible illness. Emission standards are to be set to provide an "ample margin of safety." These statutory criteria must be satisfied through data showing (1) the health effects on the general population of vinyl chloride in the atmosphere at existing levels and (2) that a reduction in emissions would remedy significant adverse health effects.

The statute plainly requires that the benefits, if any, from further reductions in vinyl chloride emissions rest on monitoring and health effects data. Such data are a necessary prerequisite to any change in the substantive provisions of the standard. Thus, any review of technology or engineering feasibility must be preceded by studies that demonstrate the health effects on the general population of current levels of vinyl

chloride in the atmosphere and any projected benefits from reduced exposure levels. Only in this way can potential benefits can be estimated. Moreover, under section 2(a) of Executive Order 12291, a review of an existing regulation must be based on "adequate information concerning the need for and consequences of the proposed government action." 46 Fed. Reg. 13193 (Feb. 19, 1981).

Judicial precedent also supports the need for health data prior to changing the substantive provisions of the standard. In a similar situation, the Supreme Court required evidence demonstrating that tightening of a standard would result in the requisite health benefits. Industrial Union Department, AFL-CIO v. American Petroleum Institute, 100 S. Ct. 2844 (1980). Thus, as a matter of regulatory procedure, it is incumbent that EPA develop health data as a basis for a technological and feasibility study of pollution control techniques.

Based on our current understanding, it does not appear that EPA is making an effort to develop the necessary monitoring and health effects data. This destroys any value which an engineering study alone might have. The Agency will be unable to evaluate the potential benefits of any proposal unless it is able to compare those changes to resulting health improvements.

Our objections to the proposed section 114 letters are based fundamentally on the view that they are unnecessary and out of sequence given the statutory, executive and judicial requirements surrounding substantive changes to the rule.

Moreover, the questions presented by EPA address engineering questions such as: (1) malfunctions of the primary control system; (2) start-up and shutdown procedures and emissions; (3) equipment and procedures used to prevent relief valve discharges; (4) leak detection and elimination programs; and (5) resin stripping systems. These very issues were considered in the TRW report, upon which we filed extensive comments. The TRW report was based on extensive plant visits and reflects a substantial amount of time freely offered by the respective firms to escort and discuss these matters with TRW representatives.

In addition to the TRW report, EPA also contracted with the Radian Corporation, which published a report in January 1981 entitled "Assessment of Control Technology for Reduction of Vinyl Chloride Monomer Emissions at Polyvinyl Chloride Plants." Another Radian report, dated September 1980, addressed the "Frequency of Leak Occurrence for Fittings and Synthetic Organic Chemical Plant Processing Units." We also understand that EPA has contracted with John Zink Company to prepare a report on flare efficiency, another topic addressed in the proposed section 114 letters.

A careful review of the TRW report, other reports and studies prepared by or conducted for EPA and the information that industry has provided EPA certainly provides a sufficient basis for evaluating present technology if that is considered a permissible interim step pending development of the necessary

health data discussed above. No further expenditure of government or private resources is reasonable at this point.

In response to a request by the Presidential Task Force on Regulatory Relief, SPI has suggested that the vinyl chloride standard be withdrawn. This proposal is based on our belief that withdrawal of the standard would not result in any adverse effects. Our belief, in turn, is based on current industry practice, the operation of the Occupational Safety and Health Administration (OSHA) vinyl chloride standard and other regulatory constraints.

As support for our view of "current industry practice" we refer you the TRW report which appears as Attachment 5 to EPA's statement in support of its request. In the report, EPA's contractor concludes that the total actual emissions for a typical polyvinyl chloride plant are less than one-half the amount permitted under the current standard. We agree that the industry is performing better than required by the standard, but, as we show in our comments on the TRW report (SPI Comments at 15-16), actual typical emissions are only about 16% of the amount permitted under the current standard. The same is true for total emissions from a typical vinyl chloride facility, whose actual emissions are only about 26% of the total allowed. It is evident that the industry is not only complying but has gone well beyond the standard to reduce emissions.

We recommend that EPA proceed to develop the needed administrative changes in the current standard on an expeditious

basis through the Advanced Notice of Proposed Rule Making (ANPRM), which they have informally described to us. We are available immediately to assist the Agency with this work.

Should the Agency conclude that further activity is needed for review of the substantive provisions of the standard, we continue to stand by the recommendations in our comments on the TRW report (SPI Comments at 31-32). These call for the development of (1) health effects data to demonstrate a public benefit from reduced emissions. We have offered to assist EPA's Carcinogen Assessment Group (CAG) to ensure a complete review of all available data. (2) EPA should address the incomplete data base in the TRW draft with the emission and compliance records from the EPA Regional Offices. If these reports are difficult to acquire and utilize, the Agency should reevaluate the need for requiring the industry to submit them. (3) EPA should assemble all of the presently available data within the Agency relative to compliance and technology emissions. (4) More effort should be applied toward estimating the cost effectiveness of the current standard, especially in reporting and work practice areas. Relying on earlier EPA data, TRW estimated the cost of compliance to the industry for the ten-year period between 1977 and 1986 as \$765.7 million in 1977 dollars. In addition, compliance with the standard accounts for a 10-12% average loss in production capacity. (5) After the above steps have been completed, the data will need to be analyzed to deter-

mine whether additional field monitoring or health effects studies are required.

Finally, we would like to take this opportunity to note one continually troubling error contained in the Federal Register notice announcing the OMB's review of the EPA request. The Federal Register notice stated that the information request was necessary to "revise the current National Emission Standard for vinyl chloride as required by the Clean Air Act" (emphasis added). The Clean Air Act does not require that the vinyl chloride standard be reviewed. Rather, according to the TRW report and the EPA staff, this review was prompted by EPA's proposed airborne policy. 44 Fed. Reg. 58642 (1979).

We do not disagree with the concept of periodic review of existing standards. But, we seriously question the propriety of basing a review of the vinyl chloride standard on a proposed policy whose validity is subject to serious doubt. See SPI Comments at 1-2. To the extent that the review is based on the philosophies contained in the 1979 proposal, it misdirects the review process. Indeed, the restriction of the present review study to engineering feasibility may be attributed to adherence to the discredited proposed carcinogen policy.

SPI appreciates this opportunity to comment on EPA's proposed section 114 letters and to submit information which will better enable OMB to evaluate any future EPA requests. We are willing to discuss these points with OMB or EPA in greater

- 9 -

detail at any time. We continue to offer our assistance to EPA in its review of the vinyl chloride standard.

Very truly yours,

THE SOCIETY OF THE PLASTICS
INDUSTRY, INC.

G.R. Munger, President

Attachments

Of Counsel:

Jerome H. Heckman
Peter L. de la Cruz

Keller & Heckman
Suite 1000
1150 17th Street, N.W.
Washington, D.C. 20036
(202) 457-1100