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November 26, 1986

Mr. Roy T. Gottesman
Vinyl Institute
Wayne Interchange
Plaza II
155 Route 46 West
Wayne, New Jersey 07470

Re: EPA Revision of Vinyl Chloride Standard

Dear Roy:

In keeping with our prior plans, we filed the enclosed Petition with the Environmental Protection Agency (EPA) requesting a stay and reconsideration of the September 1986 revisions to the vinyl chloride standard. In addition, we filed a Petition for Review with the United States Court of Appeals for the District of Columbia Circuit. Other pleadings filed with the Court request that it stay the 1986 amendments pending completion of judicial review. Copies of the pleadings are enclosed.

The pleadings filed with the Court of Appeals were circulated in draft form on November 17, 1986. The final versions reflect helpful comments received from Vinyl Institute members and Rob Brager, as well as our own refinements.

Since the Federal Rules of the Appellate Procedure require that we request EPA to stay the effectiveness of the rules before asking the Court to do so we contacted the appropriate attorneys in EPA's Office of General Counsel earlier this month. This lead to several conversations with both th

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General Counsel's office and a staff attorney in EPA's Office of Air Quality Planning and Standards. Although none of these EPA personnel could make any commitment, they suggested that we ask the Agency to reconsider its decision in addition to requesting a stay. There seemed to be genuine interest in revising some of the definitional provisions to remove our objections. However, the Agency did not seem disposed to adopting numerical relief valve discharge limitations or to modifying the leak detection and elimination requirements found in the 1986 amendments.

In any event, our Petition for Reconsideration and Stay filed with EPA reviews all the issues identified previously as meriting a challenge. Because it seeks reconsideration, the EPA pleading briefly addresses the relief valve discharge provision. This portion of the pleading is only intended to frame the issue and is by no means a complete exposition on the subject. The discussion of the relief valve discharge provision does not appear in the Court of Appeals pleadings because it is not pertinent to our request for stay. Naturally, we plan to thoroughly argue this issue in our brief and oral argument.

There is no statutory time table governing EPA's disposition of our Petition for Stay and Reconsideration. But, given the pending judicial review proceeding, I anticipate that EPA should establish its position within the next few weeks.

As for the Court of Appeals proceedings, EPA has 40 days from today to prepare and file a certified list of the record in this case. After the certified list is filed, we will have another 40 days before our brief is due.

The preparation of the stay and reconsideration pleadings will obviously assist us in subsequently briefing the case. I suggest that we defer preparing a draft brief until mid-December so that we will avoid briefing issues that EPA might remedy itself.

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If you have any comments or questions or if we can be of any assistance, please let us know.

Cordially yours,



Peter L. de la Cruz

Enclosure

cc: Robert D. Luss
W. C. Holbrook
Charles E. O'Connell
Lewis R. Freeman, Jr.

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