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June 7, 1977

Jerome H. Heckman, Esq.
Keller and Heckman
1150 17th Street, N.W.
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Washington, D.C. 20036

Re: Proposed Amendments to the National
Emission Standard for Vinyl Chloride

Dear Jerry:

This letter will briefly summarize the background leading to the proposal of the amendments to the National Emission Standard for Vinyl Chloride and highlight the major issues raised by the amendments.

I. Background

The Standard was promulgated on October 21, 1976. 41 Fed. Reg. 46560-73, 53017-18 (1976). Subsequently, the Environmental Defense Fund, Inc. ("EDF") filed a petition for judicial review of the Standard. EDF v. Train, No. 76-2045 (D.C. Cir., filed Nov. 19, 1976). On March 24, 1977, the Department of Justice, EPA and EDF announced that they had reached a settlement of the case, and jointly moved to dismiss it on certain conditions. One condition was that EPA publish proposed amendments to the Standard by June 1st. We discussed the settlement terms in our letter to you of March 23rd.

On behalf of SPI, we opposed the conditional dismissal, and asked the Court of Appeals to dismiss the case outright. The various court filings relating to dismissal were summarized in our letter of April 25th. The Court has not yet taken action on the motion, or on our suggestion that the agreement rendered the case moot and required its dismissal.

In the latter part of May, it became apparent that EPA intended to publish proposed amendments on or about June 1st whether or not the court had acted. We told the EPA staff that we thought such a course of action was inappropriate, and advised the EPA Administrator of our views in a letter of May 27th. After EPA indicated it would continue to forge ahead, on May 31st we advised the Court of EPA's intention and of our objections. On June 1st, we advised the court that the proposed amendments would be published the next day in the Federal Register.

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In the meantime, we have attempted to discover EPA's purported bases for the proposed amendments and to insure proper procedures during the rulemaking process. On April 18, we filed a Freedom of Information Act request to uncover any documents that EPA might use to justify changes to the Standard. We received a number of documents from Research Triangle Park, some of which disclosed the absence of new evidence and the undesirability of major changes to the Standard. We believe the agency's response was incomplete, and have followed up with a letter requesting a more comprehensive search and specific confirmation that EPA has fully responded.

On May 13, we asked EPA to hold a public hearing if amendments were proposed, at which SPI could make an oral presentation, and stated our view that the Clean Air Act required such a hearing. The agency initially said informally that it would hold a public hearing. That is no longer certain in light of the absence of a hearing notice with the proposed amendments. We have reserved the right to request specific procedures and specific types of hearings. After developing with the VCM/PVC Technical Committee the types of comments we intend to make, we will be in a position to support a particularized request.

II. The Proposed Amendments

The proposed amendments were published on June 2nd. Comments and supporting factual information must be developed as soon as possible so that they can be used effectively in requesting and planning for a public hearing. Final comments must be received in North Carolina by August 1, 1977. Since the proposed amendments are relatively short, we will simply highlight the important features, rather than repeating the details.

A. Zero Emission Goal

- The Preamble to the proposed amendments restated EPA's policy for regulating suspected carcinogens. Since no threshold has been developed for Vinyl Chloride, EPA has taken the view that only a zero level of emissions would absolutely protect the public health. EPA has stated this as a goal. Its regulatory approach will be to require the lowest emission level technologically achievable.

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- The amendments purportedly were proposed to insure that the Standard continues to approach the zero emission goal. EPA will fully review the Standard three years after any amendments have been promulgated.

B. Existing Sources

- Within three years, sources presently required to meet the 10 ppm emission level, will be required to meet 5 ppm. This requirement would apply to:

ethylene dichloride purification
vinyl chloride formation &
purification
reactors, strippers
mixing, weighing & holding
containers
monomer recovery systems
fugitive emissions covered by the
current standard.

- After three years, companies may qualify for an interim emission limit above 5 ppm. Requests must be made in advance and be justified by supporting data. A public hearing would be held on each request. Requests would be reviewed every three years.
- EPA's stated purpose is "to force owners and operators to maximize the effectiveness of existing control systems." EPA has disclaimed an intent to require removal or replacement of control systems "installed to meet the 10 ppm limit", or to require the addition of a second control system.

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C. New Sources

- Separate requirements would apply to any new "source", including replacement or expansion in existing plants. These requirements apply to "sources" for which construction was "commenced" after June 2, 1977 (commencement would include certain types of contractual obligations).

D. New Resins

- "New resins" are defined as resins first produced for marketing after June 2, 1977. Emission limits for new resins would be 25 percent of the existing limits for previously-produced resins, as follows:

Stripping devices

dispersion resins -- stripped to 500 ppm
other resins -- stripped to 100 ppm

Option to use control technology:

dispersion resins -- 0.05 kg/kg product
other resins -- 0.01 kg/kg product

- No waivers are provided for. Companies must either meet the limits or must not produce the new resin. EPA believes that, for some resins, some companies have developed the technology necessary to meet these limits.

E. Offset Policy

- Would apply to new construction that increases the production rate.
- Increases in emissions beyond the level permitted by the standard would be prohibited within 8 km. of an existing source. The emission limits would be specified in EPA's approval of new construction.

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- Comments are particularly sought on
this aspect of the proposed amendments.

If you have any questions, please advise.

Cordially,

CLH
Gary H. Baise

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