

EXECUTIVE SUMMARY
for
SPI-EPA MEETING
on the
PROPOSED AMENDMENTS TO THE VINYL CHLORIDE STANDARD

November 22, 1977

5:30-6:00 p.m.

I. PARTICIPANTS

A. SPI

- Air Products and Chemicals, Inc.
Richard Fleming, Group Vice President
- Diamond Shamrock Corporation
William H. Bricker
President and Chief Executive Officer
- The B.F. Goodrich Company
O.P. Thomas, Chairman of the Board

B. EPA

- Douglas M. Costle, Administrator
- Barbara Blum, Deputy Administrator
- David Hawkins, Assistant Administrator for
Air and Waste Management
- Joan Z. Bernstein, General Counsel
- Walter Barber, Deputy Assistant Administrator
for Air Quality Planning and Standards

II. BACKGROUND

- A. Industry cooperated with EPA for almost three years
while EPA was developing the existing Standard.

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- B. An adequate Standard exists.
 - 1. EPA estimates 90-95% reduction of uncontrolled emissions, i.e., 1-2 parts per billion.
 - 2. Independent modeling predicts even less.
- C. We have pledged to do our best to meet the existing Standard and it is being implemented.
- D. The existing Standard is defensible.
 - 1. The Administrator has expressed concern that the courts would not have upheld the Standard, and possibly might have required EPA to ban vinyl chloride emissions entirely.
 - a. "The industry did not seek judicial review of the standard as promulgated. EDF's challenge, however, raised the possibility of a court ruling to the effect that EPA must ban vinyl chloride emissions entirely. Thus, a major objective in settling the case was to remove the cloud of uncertainty that the litigation had placed over the standard and efforts to comply with it." (EPA Administrator's Letter to The Honorable Lawrence Coughlin, House of Representatives, dated August 31, 1977.)
 - 2. EPA's regulatory approach was proper and defensible. A recent decision of the U.S. Court of Appeals for the District of Columbia Circuit has upheld EPA's regulations for asbestos emissions and has approved EPA's use of best available control methods in an emission standard established under Section 112 of the Clean Air Act. National Association of Demolition Contractors, Inc. v. Costle, No. 74-1545 (D.C. Cir., Oct. 13, 1977).

"Protection of the public with 'an ample margin of safety' may necessitate use of different control measures, including use of the 'best available control methods', in different circumstances." (Slip op. 10).

III. THE PROPOSED AMENDMENTS

- A. EPA has proposed two major new policy aspects that are far-reaching, the zero emission goal and the proposed offset requirements.

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B. The zero emission goal and the proposed offset requirement should be withdrawn.

1. Reasons for withdrawing the zero emission goal.

- a. Abandoning risk analysis in favor of zero emission goals would not properly utilize society's resources.
- b. The Clean Air Act does not require a zero emission level or a zero emission goal.
 - (1) The Clean Air Amendments of 1970 rejected the approach embodied in the Senate bill that would have required EPA to prohibit emissions of hazardous air pollutants unless industry could demonstrate a safe level.
 - (2) Congress was aware of and did not object to EPA's approach in the existing Vinyl Chloride Standard when it passed the Clean Air Act Amendments of 1977.
- c. The recent court decision referred to in §II D 2, above, approved the use of a best available control method approach under Section 112.
- d. EPA should not state a goal unless it intends to reach it.
 - (1) The only way to achieve a zero emission level is to shut down the entire industry. EPA has recognized Congress did not intend this result.
 - (2) Stating an unrealistic goal misleads the public.
- e. Vinyl chloride is a health hazard at very high levels of exposure. The existing Standard, however, will result in minute ambient vinyl chloride concentrations. EPA and independent studies indicate mean annual average concentrations of 1 ppb or less. Exposure to such infinitesimal concentrations has not resulted in any adverse health effect.

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- f. The zero emission goal implies zero risk, but we do not live in a riskless society. Meaningful comparisons must be made of the risk involved.

2. Question:

Is EPA now proposing to abandon its policy of risk analysis and adopt automatic zero emission goals without examining actual health risks?

3. Reasons for withdrawing the proposed offset requirements.

- a. The offset requirements raise serious competitive and antitrust questions.

- (1) Could such a policy create market dominance?
- (2) Could it create competitive inequities?
- (3) What would be the extra costs of offset and who would bear them?

- b. The offset requirements would require vinyl chloride emissions to be offset only with vinyl chloride emissions. A company could only obtain offset credits from its own plant or by bargaining with its competitors.

- c. The offset requirements would hinder expansion of existing polyvinyl chloride plants or construction of polyvinyl chloride plants adjacent to vinyl chloride monomer plants, and would increase the number of plant locations.

- (1) Some adverse environmental impacts would result. For example, if polyvinyl chloride plants are required to be built at distances where pipeline deliveries are impractical, they will not be able to take advantage of the emission reductions available from pipeline deliveries.
- (2) Increased energy usage would result.

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- (3) Economies of scale could not be realized. Economic considerations favor large scale monomer plants located near several polyvinyl chloride plants.
- d. Diffusion modeling studies show that any increased vinyl chloride exposure from co-location of vinyl chloride or polyvinyl chloride facilities would be infinitesimal. The existing Standard will result in minute annual average ambient vinyl chloride concentrations.
- e. The effects of the proposed offset requirements were not adequately considered by EPA. The proposal was not set forth in sufficient detail to permit a completely thorough response. Accordingly, we do not know all of the potential adverse consequences of such specific chemical offset requirements, and can raise some of the issues only as questions.
- 4. In proposing the offset requirements, "EPA recognize[d] the potential difficulties in implementing such a policy" (Preamble, 42 Fed. Reg. 28156 (1977)). We submit that the comments amply demonstrate that the proposed offset requirements should be withdrawn.

IV. CONCLUSION

- A. SPI does not believe that EPA policymakers have focused sufficiently on the ramifications of the proposed amendments. They would drastically change the Agency's regulatory approach under Section 112 of the Clean Air Act.
- B. Question:

Has the Administrator reached the conclusion that EPA's promulgation of the existing Vinyl Chloride Standard was not legally proper?
- C. SPI believes that there is no need to amend the existing Standard at this time. The proposed amendments have not been supported by any adequate rationale or basis. Accordingly, all of the proposed amendments should be withdrawn.

D. Compromise proposal:

1. Attempt to obtain the Administrator's commitment to withdraw the zero emission goal concept and the proposed offset requirements. The Agency could reaffirm its previously-expressed policy of reexamining new data from time to time and revising the existing Standard when health evidence so dictates.
2. If the Administrator agrees to do so, then advise him that industry will work with the Agency staff to improve some of the technical aspects of the other proposed amendments.