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TO: Distribution

FROM: J. C. Ledvina
DATE: October 9, 1989

SUBJ: PROPOSED REVISIONS TO VCM NESHAP

You should have already received a copy of the proposed revision to the VCM NESHAP. The revisions are based on extensive negotiation and input from Vista and the Vinyl Institute. They fine tune the standard and give us a little better chance at compliance.

I've enclosed a summary of the proposal that appeared in Environment Reporter. I urge you to read the full text.

Joe

J. C. Ledvina

dlj
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cc: H. D. Garrison-Okc, R. A. Conrad-LCVCM, R. W. Seymour-Aber

Distribution: D. R. Booth-LCVCM, J. Callen-Okc, F. Jeanson-Aber

be recognized by the Department of the Interior, have substantial governmental duties and powers, have authority to regulate the quality of reservation waters, and be able to administer the program, the proposal said.

According to EPA, tribes and states are not precluded from adopting water quality standards that the agency may consider too stringent and EPA does not have authority to disapprove standards for this reason. However, EPA clearly has authority to disapprove standards that it considers less stringent than necessary to comply with the Water Act, the agency said.

The proposed rule describes several dispute resolution techniques, including mediation and non-binding arbitration, that EPA may use to resolve state/tribal disputes.

Comments on the proposed rule should be sent by Dec. 21 to David K. Sabock, Criteria and Standards Division (WH-585), Office of Water Regulations and Standards, EPA, 401 M St. S.W., Washington, D.C. 20460; telephone (202) 475-7315.

Hearings on the proposal will be held Nov. 14 in Phoenix, Ariz.; Nov. 16 in Rapid City, S.D.; and Dec. 5 in Washington, D.C.

Air Pollution

TERMS IN VINYL CHLORIDE STANDARD PROPOSED FOR CLARIFICATION BY EPA

Definitions of "leak detection" and other terms contained in 1986 administrative revisions to the Environmental Protection Agency's vinyl chloride standard would be clarified under a Sept. 21 proposal.

The standards set limits on emissions from equipment leaks at plants that produce vinyl chloride, polyvinyl chloride, and ethylene dichloride by oxychlorination. EPA said (54 FR 38938).

The proposal was made under the Clean Air Act and is published in the *Full Text* Section of this issue. No changes would be made to emission limits under the proposal.

EPA seeks to clarify the definitions in response to a petition by the Society of the Plastics Industry Inc., Dow Chemical Co., Georgia Gulf Corp., and Vista Chemical Co.

In discussing leak detection, the agency said it was correct to include "indications of dripping" as a sign that double mechanical seal pumps would need repair.

However, EPA said it agrees that some amount of barrier fluid leakage is normal, and therefore proposed to revise the provisions to clarify it, as it pertains to pump seals that contain vinyl chloride, and those that do not contain vinyl chloride.

Other definitions proposed for clarification included those for exhaust gas, relief valve discharge, and three-hour averaging.

The industry petition also requested a stay of enforcement while EPA considered the request, a request the agency proposed to deny, Shirley Tabler of the agency's standards development branch told BNA Sept. 21.

Comments should be sent in duplicate by Nov. 20 to Docket No. A-81-21, Central Docket Section, EPA, 401 M St. S.W., Washington, D.C. 20460. For more information, contact Tabler, Standards Development Branch, Emission Standards Division (MD-13), EPA, Research Triangle Park, N.C. 27711 at (919) 541-5256. To request a public hearing contact by Oct. 11 Ann Eleanor at the same North Carolina address, or call (919) 541-5578.

Air Pollution

PENNSYLVANIA'S AVERAGING RULES DEFICIENT; EPA IMPOSES CORRECTION SCHEDULE FOR BUBBLES

The Environmental Protection Agency Sept. 21 said Pennsylvania's state implementation plan is deficient in its regulation of emissions averaging, or bubbles, and banking of emissions control credits (54 FR 38901).

The agency first notified the state in May 1988 that its SIP was deficient. The Sept. 21 notice reiterates that finding and imposes a correction schedule. EPA said.

Pennsylvania's bubble and banking regulations are deficient in its baseline standards, involvement of new sources, and opportunity for public notice and comment, EPA said.

The agency also listed 52 counties that have deficient bubble and banking rules. The state's proposal was for a "generic" bubble that would not be tied to a specific pollutant.

For more information, contact Cynthia H. Stahl, EPA Region III, Air Management Division, 841 Chestnut Building, Philadelphia, Pa. 19107; telephone (215) 597-9337.

Alaska

EPA proposed to approve a revision to the Alaska SIP regulating fugitive emissions (54 FR 37948).

Comments should be sent by Oct. 16 to Laurie M. Kral, Air Programs Branch, EPA, 1200 Sixth Ave., AT-082, Seattle, Wash. 98101.

Louisiana

EPA Sept. 13 reopened the comment period for a proposal to approve a revision to the Louisiana SIP that would allow an alternate emission reduction plan, or bubble, at the Vistal Chemical Co., Westlake (54 FR 37815).

Comments should be sent by Oct. 13 to Thomas H. Diggs, EPA Region VI, Air Programs Branch, Mail Code 6T-AN, 1445 Ross Ave., Dallas, Texas 75202-2733.

Maine

EPA Sept. 11 proposed to approve a revision to the Maine SIP that would reduce volatile organic compound emissions by reducing the Reid vapor pressure of gasoline (54 FR 37479).

Comments should be sent by Oct. 11 to Louis F. Gitto, Director, Air Management Division, Room 2311, JFK Federal Building, Boston, Mass. 02203; and to the Maine Department of Environmental Protection, Upham Building, 71 Hospital St., Augusta, Maine 04333.

Ohio

EPA Sept. 13 disapproved a revision to the Ohio SIP that would have extended the compliance date and relaxed ozone emissions limits at Navistar's surface coating lines (54 FR 37795).

The rule will take effect Oct. 13. For more information, call Uylaine E. McMahan at (312) 886-6031.

EPA Sept. 19 disapproved a revision to the Ohio SIP that would have redesignated Montgomery County from non-attainment to attainment for total suspended particulates (54 FR 38518).

The rule will take effect Oct. 19. For more information, call Maggie Greene at (312) 886-6088.

Rhode Island

EPA Sept. 19 approved a revision to the Rhode Island SIP allowing an emissions trade for sulfur dioxide emissions from the University of Rhode Island (54 FR 38517).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[AD-FRL-3500-9]

National Emission Standards for Hazardous Air Pollutants; Revisions to Vinyl Chloride; Equipment Leaks of Volatile Hazardous Air Pollutants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and public hearing; petition for reconsideration.

SUMMARY: On November 28, 1986, the Society of the Plastics Industry, Inc. (SPI) filed with EPA a petition for stay of enforcement and administrative reconsideration of seven provisions in the final rule revising the national emission standard for VC (September 30, 1986, 51 FR 34904). The SPI and three manufacturers (Dow Chemical Company, Georgia Gulf Corporation, and Vista Chemical Company) concurrently filed a petition for review of the revisions to the VC standard with the U.S. Court of Appeals for the District of Columbia Circuit. The petitioners requested review of the definitions of "ethylene dichloride purification," "leak," "exhaust gas," "relief valve discharge," and "3-hour period;" the scope of the relief valve discharge provisions; and the leak detection and elimination provisions (area monitoring). The EPA has evaluated the petitions, and the Administrator proposes to grant the petitioners' request for clarification of certain of these provisions. Minor revisions are being proposed to correct ambiguities in several definitions and in the applicability of certain regulatory requirements in the VC standards. The proposed revisions would not increase the emissions (and the associated health risks) allowed by the standards as promulgated in September 1986. No changes, however, will be made with regard to area monitoring requirements or the relief valve discharge standard. This action provides EPA's responses to petitioners' requests, and the resulting minor proposed revisions to the standards are set forth in this notice.

This action also serves as notice that the petitioners' request for stay of the 1986 revised provisions is being denied.

In addition, this notice is not intended to address the recent decision by the D.C. Circuit Court on the VC standards, *Natural Resources Defense Council, Inc. v. EPA*, 824 F.2d 1146 (1987). Any response to that decision will be made in a future notice in the Federal Register.

A public hearing will be held to provide interested parties an opportunity for oral presentations of data, views, or arguments concerning the proposed revisions.

DATES: *Comments.* Comments must be received on or before November 28, 1989.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by October 11, 1989, a public hearing will be held on October 12, 1989, beginning at 10:00 a.m. Persons interested in attending the hearing should call Ann Eleanor at (919) 541-5578 to verify that a hearing will be held.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by October 11, 1989.

ADDRESSES: *Comments.* Comments should be submitted in duplicate (if possible) to: Central Docket Section (LE-131), Attention: Docket No. A-81-21, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. Ann Eleanor, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5578.

Docket. A docket, number A-81-21, containing information considered by EPA in the development of the promulgated standards and the petition for stay and reconsideration, to which this notice is responding, is available for public inspection between 8:00 a.m. and 3:30 p.m., Monday through Friday, at EPA's Central Docket Section, South Conference Center, Room 4, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For further information and interpretations of applicability, compliance requirements, and reporting aspects of the revised standards, contact the appropriate Regional, State, or local office contact as listed in 40 CFR 60.4. For further information on the background for the proposed revised standards, contact Ms. Shirley Tabb, Standards Development Branch, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5256.

SUPPLEMENTARY INFORMATION:

I. Background

In December 1975, EPA designated VC as a hazardous air pollutant under section 112 of the Clean Air Act (42 U.S.C. 7412) and promulgated final rules for VC on October 21, 1976 (40 CFR 61.60-61.71). The standards limit emissions of VC from plants producing ethylene dichloride (EDC) via oxychlorination, VC, and polyvinyl chloride (PVC) or other polymers containing VC. These plants are subject to a combination of emission limits, equipment, and work practice requirements at numerous points in the manufacturing processes.

On September 30, 1986 (51 FR 34904), EPA promulgated several administrative and clarifying revisions to the national emission standard for VC. Subsequently, on November 28, 1986, SPI filed with EPA a petition for stay and administrative reconsideration of seven provisions in the final revisions to the VC standard. The SPI, Dow Chemical Company, Georgia Gulf Corporation, and Vista Chemical Company concurrently filed a petition for review of several provisions of the revised standard with the U.S. Court of Appeals for the D.C. Circuit. The SPI is a nonprofit corporation whose members include processors and manufacturers of plastics or plastic products, suppliers of raw materials, processors and converters of plastic resins, and manufacturers of accessory equipment for the plastics industry. The Vinyl Institute, a division of SPI, represents the major domestic producers of VC and PVC.

II. Summary of SPI's Petition for Stay/Reconsideration and EPA's Response

The SPI requested that EPA issue a stay of the 1986 revisions to the VC standard pending review of those revised provisions. Their request for a stay was based on the following factors: (1) Certain provisions of the 1986 proposal were changed without adequate notice or justification by EPA; (2) industry members represented by SPI would suffer irreparable harm if the effectiveness of the 1986 revisions are not stayed during the review period; and (3) a stay will cause no harm to other parties or the public interest.

The EPA has considered the factors presented by SPI in support of their request for stay of the 1986 VC revisions pending EPA's review of the revisions. Having considered the likelihood of SPI's success on the merits of its petition for reconsideration, the likelihood that SPI would be irreparably harmed absent a stay, the prospect that others would be

harmful in the event of a stay, and the public interest, the Administrator has not stayed the 1986 revisions of the VC standard at issue here. This is consistent with long-standing EPA policy to continue to enforce an existing regulation until and unless a revision becomes formally effective. The EPA's policy has been consistently approved by the courts in the context of State Implementation Plans. See *Train v. NRDC*, 421 U.S. 60, 92 (1975) ("This litigation, however, is carried out on the polluter's time not the public's, for during [the pendency of a SIP revision] the original regulations remain in effect, and the polluter's failure to comply may subject him to a variety of enforcement procedures.") The rationale in *Train* applies with equal force to regulations promulgated under section 112. Therefore, EPA hereby denies SPI's request for a stay pending EPA's reconsideration of the VC standard.

In the petition for review of the revised standard, SPI claimed that the 1986 promulgated revisions differed significantly from the revisions that were proposed on January 9, 1985 (50 FR 1182).

The SPI asserted that without adequate notice, EPA's 1986 revisions changed key provisions of the VC standard in a manner that: (1) Violated case law; (2) imposed new penalties; (3) created multiple penalties for the same event; and (4) expanded the types of equipment subject to the standard. The following discussion summarizes their concerns and EPA's responses.

Definition of "Exhaust Gas"

The SPI requested a review of several definitions in the VC standard. According to SPI, the 1986 final definition of "exhaust gas," 40 CFR 61.61(x), deleted a key sentence from the proposed definition without adequate explanation. By omitting the sentence, "A leak * * * is not an exhaust gas," SPI was concerned that leak emissions could result in violations of the exhaust gas standard if more than 10 ppm of VC are emitted. Reconsideration was requested because leaks from equipment in VC service would exceed the 10 ppm emission limitation for exhaust gases, thereby subjecting industries to a potential fine of \$25,000 per day for each leak.

It was not EPA's intent to categorize every leak of greater than 10 ppm as an exhaust gas. The sentence was omitted in the final definition because some emissions which are required to be vented to a control device cannot be automatically categorized as either a leak or exhaust gas by a general definition. As stated in the promulgation

BID for the revised standards (pp. 2-54 and 2-55), the facts of the situation resulting in these emissions needed to be considered when deciding which part of the VC standard applied. Upon reconsideration, EPA agrees with SPI's concern that the final definition of "exhaust gas" does not provide for exemption from the exhaust gas standard (10 ppm) when such an emission is judged to be a leak. Therefore, EPA is proposing to modify the definition by adding two sentences which clarify that a leak is not an exhaust gas, and that equipment containing exhaust gas must comply with § 61.65(b)(8) requiring leak detection and prevention, whether or not that equipment contains 10 percent by volume VC. This proposed addition assures that leaks from exhaust gas streams are subject to the leak detection and elimination requirements, but that such leaks will not also be classified as "exhaust gas."

Definition of "Relief Valve Discharge"

The SPI objected to a sentence added to the 1986 final definition of "relief valve discharge," 40 CFR 61.61(y), which stated that a relief valve discharge would be exempt from regulation if vented to a control device, but only if the control device meets the 10 ppm emission limit. The SPI pointed out that a double violation could occur (i.e., of the relief valve discharge and exhaust gas standards) if a relief valve discharge is vented to a control device not meeting 10 ppm. If interpreted to impose double penalties, this provision, in SPI's view, would exceed EPA's statutory authority and unlawfully increase the maximum statutory penalty set by Congress for a single event that leads to a violation of a NESHAP. The SPI believes that owners/operators of regulated facilities have sufficient economic incentive (preventing releases of their product) to ensure that pressure relief valves work as designed, regardless of the standard promulgated. Moreover, the final definition contradicts past regulatory interpretation that relief valve discharges ducted to flares and other control devices are exempt from the exhaust gas standard.

The EPA agrees that venting a relief valve discharge (RVD) to a combustion device achieves significant emission reduction benefits. These devices, when properly designed and operated, generally have efficiencies of 98 percent or greater. The use of combustion devices are not expected to increase the number of RVD's. Thus, because regulated facilities do have some economic incentive to ensure that RVD's are minimized, the net RVD emission

reduction resulting from the use of combustion devices should approach 98 percent or more. Therefore, minor revisions to the definition of "relief valve discharge" and to the RVD provisions (§ 61.65(a)) are being proposed to clarify that an RVD routed to a properly designed and operated control device would be exempted from the provisions of the RVD standard. This change would prevent misinterpretation of the regulatory requirements and imposition of a double penalty.

In addition, new provisions (§ 61.65(d)) have been added for an RVD that is ducted to a control device that is continually operating while emissions from the release are present at the device. An RVD that is ducted to a control device, other than a flare, would be subject to the 10 ppm limit and the continuous emission monitoring system requirement contained in § 61.68 and to the reporting requirements of § 61.70. In the case of flares, emission monitoring is not possible. Therefore, for RVD's routed to a flare, the design requirements for flares (40 CFR 60.18) would apply. The EPA recognizes that measurement of relief valve discharge volumetric flow rates and gas stream composition is not possible using the methods set forth in § 60.18 (f)(3) and (f)(4). Estimates of these parameters will, therefore, need to be based on empirical or other bases, subject to EPA approval. Flare operations would be monitored in accordance with the requirements of §§ 60.18(d) and 60.18(f)(2). For the purpose of § 60.18(d), the volume and component concentration of each RVD would be estimated and calculations would be made to verify ongoing compliance with the design and operating requirements of § 60.18 (c)(3) through (c)(6). If more than one relief valve is discharged simultaneously to a single flare, these calculations would account for the cumulative effect on all such RVD's. If the results of the monitoring contained in § 60.18(f)(2) or any other information show that the pilot flame is not present 100 percent of the time during which an RVD is routed to a flare, the RVD is subject to the provisions of § 61.65(a). A report describing the flare design must be provided to the Administrator not later than 90 days after the adoption of this provision or within 30 days of the installation of a flare system for control of RVD's, whichever is later.

Definition of a "Leak"

The SPI objected to EPA's defining "indications of liquid dripping" as a "leak," 40 CFR 61.61(w). The SPI

requested that the phrase be deleted or revised to refer to VC since dripping liquids may not always contain VC.

In the VC standard, the portion of the leak definition referring to "indications of liquid dripping" applies only to pumps in VC service. The EPA believes that "indications of liquid dripping" are an appropriate criterion for requiring repair actions on double mechanical seal pumps in VC service and, therefore, should be included in the definition of a leak. As stated in the BID for the 1986 promulgated revisions, visible leakage from all types of pump seals, including double mechanical seals required by the VC standard, is generally indicative of seal wear even if no VC is present in the leaking fluid. To prevent further seal wear resulting in major seal failure allowing VC emissions into the atmosphere, the seals should be repaired soon after leakage is initially detected. After further consideration of SPI's concern, however, EPA agrees that some amount of barrier fluid leakage is normal. Therefore, EPA proposes to revise the standards for pumps (§ 61.242-2(d)) to clarify the requirements for pump seal drips. Section 61.242-2(d)(4) addresses drips from pump seals that contain VC, and § 61.242-2(d)(5) addresses drips from pump seals that do not contain VC.

The proposed revised provisions of § 61.242-2(d) are designed to accomplish two purposes. One is to ensure that VC leaks from pump seals are detected and eliminated. This is accomplished by paragraphs (d)(4) (i), (ii), and (iii). The other purpose is to identify and prevent pump seal failures by causing abnormal dripping (even when VC is not contained in the dripping liquid) to be detected and repairs to be made. This is accomplished by paragraphs (d)(6) (i), (ii), (iii), and (iv). These paragraphs require the facility owner/operator to establish criteria associated with normal operation.

The intent of the proposed revised provisions is identical to the existing provisions. The difference is that the proposed § 61.242-2(d)(5)(i) allows an owner/operator to take into account the small number of liquid drips that may occur when new seals are in place or are otherwise associated with normal operation.

Definition of "3-hour Period"

The SPI noted that, in the September 1986 final rule, EPA added a definition of "3-hour period" 40 CFR 61.61(z), to clarify that the emission limits in the exhaust gas standard (10 ppm) is a 3-hour average. The definition creates "rolling" averages (24 3-hour averages per day) rather than "block" averages (8

3-hour averages). The SPI objected that a single, 1-hour 10 ppm exceedance could result in three violations of the 10 ppm exhaust gas standard, under the revised definition of "3-hour period." This could lead to double or triple penalties, "thereby exceeding the maximum penalty permissible under the Clean Air Act."

Upon reconsideration, EPA proposes to further revise the definition of "3-hour period" to ensure that a single event of 1-hour or less at 10 ppm or greater could result in no more than a single violation of the exhaust gas standard. A phrase has been added to the definition in 61.61(z) to accomplish this. The EPA did not intend to penalize a plant three times whenever a 10 ppm event occurs within 1 hour. Rather, EPA wanted to ensure that a combination of two or more 10 ppm events which would result in a 3-hour exceedance do not go unpenalized just because they occurred over two separate 3-hour "blocks." The proposed revised definition of "3-hour period" satisfies EPA's intent without unintentionally subjecting a plant owner/operator to multiple violations.

Definition of "Ethylene Dichloride Purification"

According to SPI, the 1986 final revisions changed the definition of EDC purification, 40 CFR 61.61(o). The promulgated definition excluded product storage following the final VC finishing column, and thus exempted such storage from the exhaust gas standard. The SPI believes that EPA intended to exclude not only EDC final product storage but also intermediate product storage (before the final finishing column) based on EPA's response to comments contained in the BID (pp. 2-43 and 2-44) and in the BID summary of changes, since proposal (pp. 1-2). Although it supports the exemption of final EDC product storage from the definition, SPI requested that EPA also exempt intermediate EDC product storage. In addition, one SPI company, a major producer of VC monomer and PVC polymer, provided information on nine crude and intermediate storage tanks at one of its facilities. The information included tank sizes, design, emissions estimates, and costs. This company requested EPA to exclude intermediate and crude, as well as final EDC storage tanks, from the definition.

The EPA agrees that it intended to exempt crude and intermediate storage tanks from the exhaust gas standard. The definition of "EDC purification" has been revised to clarify that emissions from crude, intermediate, and final storage tanks following EDC formation are not subject to the standards. In

addition, § 61.65(b)(8). Opening of equipment, has also been revised to clarify that the requirements in this section do not apply to crude, intermediate, or final EDC storage tanks. As stated in the BID response (pp. 2-43 through 2-45), EPA evaluated the reasonableness of regulating EDC storage tanks under the VC standard. Based on emissions data submitted by the commenters, uncontrolled VC emissions from intermediate and final EDC storage tanks at a typical EDC/VC plant were estimated to be 0.1 to 2 Mg/yr. An emission reduction as high as 14 Mg/yr from all plants would be achieved based on venting existing EDC storage tanks to an existing primary control device (incinerators). Prior to the September 1986 rule, EPA concluded that regulation of these tanks under the VC standard was not warranted.

In response to SPI's petition for reconsideration, EPA has evaluated the data submitted by one SPI company (Docket Entry No. VI-B-4) for nine crude and intermediate EDC storage tanks before the final finishing column at one of its facilities. These tanks are currently uncontrolled. The data included tank sizes, design, emissions estimates, and costs. The company's estimates of the total uncontrolled emissions (0.002 to 0.323 Mg/yr VC) for the nine crude and intermediate tanks fall at the low end of the range of individual VC tank emission estimates made by EPA for EDC final product storage tanks. This information is consistent with EPA's position that the regulation of crude and intermediate storage tanks is unnecessary because emissions are extremely low.

Leak Detection and Elimination

Under the 1976 VC standard, 40 CFR 61.65(b)(8), companies installed area monitors and developed plant-specific leak detection and elimination programs that included the routine use of portable monitors. Subsequently, EPA developed a generic leak detection and elimination program (subpart V, 40 CFR 61.240-61.247) based on equipment and data for the organic chemical and petroleum industries. The 1986 revisions incorporated the subpart V provisions into the VC standard. The SPI opposes the addition of the subpart V provisions to the VC standard. The SPI argued that existing programs are effective without the subpart V provisions and that EPA's decision to retain area monitoring requirements from the 1976 standard is questionable since they have not been required for other industries subject to subpart V. In addition, according to SPI, no justification has been given for

requiring retention of area monitors in addition to subpart V. Although a program under § 61.65(b)(8) demonstrating less than 2 percent of valves leaking is considered "effective," such a program is exempt only from certain parts of subpart V. For these reasons, SPI requests reinstatement of the leak detection and elimination requirements contained in the 1976 VC standard.

Upon reconsideration, EPA proposes to make no changes in the application of subpart V to the VC standard and the requirements for fixed area monitoring (§ 61.65(b)(8)(i)). The basis for adding subpart V to the VC standard was explained in detail in the preamble to the proposed revisions (50 FR 1190-1192, January 9, 1985), and the justification for those requirements has not changed since that time. The EPA believes that the area monitoring and subpart V approaches both have benefits and are not redundant. In particular, area monitors allow for quick detection of certain large VC leaks that might otherwise go undetected until the next routine portable monitoring screening, as well as detection of large leaks from equipment not affected by subpart V (e.g., agitators). The area monitors have already been purchased by subject facilities and the additional cost of monitor operation is relatively small. Therefore, a comparison to other industries is not relevant. Also, area monitoring is often used as part of a program to reduce leaks to below 2 percent, and therefore, as discussed below, an owner/operator does not have to conduct the leak detection and repair provisions of subpart V.

Any plant with an effective existing program under § 61.65(b)(8) for detecting and repairing leaks can control equipment leaks without complying with the subpart V provisions. Specifically, if an owner/operator can demonstrate that less than 2.0 percent of valves are leaking in any process unit, then that process unit is exempt from §§ 61.242-1(d) (marking), 61.242-7(a) (monitoring), 61.246 (recordkeeping), and 61.247 (reporting). To demonstrate that less than 2.0 percent of valves are leaking, the owner/operator must conduct a performance test initially, annually, and at any other times requested by the Administrator. If, during any performance test, the percentage of leaking valves exceeds 2.0 percent, then the owner/operator must comply with subpart V within 90 days. This exemption only applies to the standards for valves (§ 61.242-7(a)(b)(c)) because the other standards in subpart V interface with specific equipment

requirements/performance measures in the VC standard (e.g., leaks from relief valves, § 61.65(b)(4) and rotating pumps, § 61.65(b)(3)(i)). However, this exemption includes all of the recordkeeping and reporting requirements of §§ 61.246 and 61.247 because these requirements mainly affect valves. The exemption for marking, recordkeeping, and reporting applies to the entire process unit. The exemptions (provided in the VC standard) to subpart V were designed, based on comments made during the public comment period, to avoid unnecessary changes to existing leak detection plans which are effective in detecting and repairing VC leaks.

Scope of Relief Valve Discharge Provisions

The SPI opposes EPA's withdrawal of the 1985 proposed numerical limits for relief valve discharges and has requested that EPA reconsider its decision to retain the emergency discharge Provision of the 1976 standard, 40 CFR 61.65(a). The SPI claimed that the 1976 standard "impermissibly delegates rulemaking authority to enforcement personnel and is unconstitutionally vague and that, as applied, the regulation is unfair, unlawful, arbitrary and capricious." The SPI prefers the proposed numerical limits because they would remedy these problems and reduce the administrative burden on EPA and industry. The SPI also believes that the proposed numerical limits are stricter than the 1976 emergency discharge provision because "each discharge causing an exceedance of any numerical limit * * * would be considered a violation without regard to whether any individual discharge was preventable."

The EPA has reviewed the basis for the decision not to promulgate numerical limits for RVD's and has decided that the 1976 standard is still reasonable and appropriate. The 1976 standard permits only "emergency" RVD's, those that could not have been avoided by taking measures to prevent the discharge.

A detailed discussion of the basis for not promulgating the numerical limits for RVD's is contained in the preamble for the promulgated amendments (51 FR 34905-34906, September 30, 1986), and SPI has not provided any new information that would affect EPA's decision. In summary, the decision to retain the original 1976 RVD standard was made after considering the revisions in light of public comments on the numerical limits, and after review of the basis for the decision to reformat the standard.

In particular, several public comments on the 1985 proposed amendments expressed concern that preventable RVD's would be allowed under the revised standard and that the performance allowed under the revised standard could be inconsistent with that allowed under the original standard. Other comments expressed concern that the revised standard included no mechanism for regulating very large RVD's. The basis for the statement that a large EPA resource commitment is required for enforcing the 1976 RVD standard was also questioned.

The EPA's review revealed that the burden on its resources had diminished as experience with the implementation of the standard increased and as the industry's understanding of the provisions of the existing standard became clearer. Thus, it was not necessary to revise the format of the RVD standard. Compared to the 1985 proposal, the existing standard also has the advantages of affecting all preventable RVD's and providing better regulation of large volume RVD's. Therefore, for the reasons stated, EPA's review of the record supports the existing standard.

Based on the EPA's experience with administering the VC standard of § 61.65(a), one major deficiency with the type of information submitted in many of the 10-day reports of RVD's has been recognized. This concerns that information required to be reported by the standard regarding "the action that was taken to prevent the discharge." For purposes of clarification, this portion of the standard requires information on the action taken to prevent or address the cause leading up to the RVD release and not only the action taken after an event or cause occurs that results in an RVD release.

Emission Monitoring Clarification

In addition to the changes made in response to the petition for reconsideration, a minor clarification has been made in § 61.68, Emission monitoring. The existing regulation, § 61.68(b), states that the VC monitoring system(s) that is used to meet the continuous monitoring requirements in paragraph (a) (of § 61.68) for emissions from sources for which emission limits are prescribed is to be a device which obtains air samples on a continuous sequential basis and analyzes them. Since it is obvious that paragraph (a) of § 61.68 calls for the monitoring of the emissions from prescribed sources for vinyl chloride and not ambient air sampling as required under § 61.65(b)(8) for leak detection/elimination, § 61.68(b)

has been clarified to require that representative (not air) samples from one or more applicable emission points be obtained and analyzed. This revision more accurately reflects the original intent.

III. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the proposed rulemaking in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the ADDRESSES section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the ADDRESSES section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, DC (see ADDRESSES section of this preamble).

B. Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties to identify readily and locate documents so that they can effectively participate in the rulemaking process; and (2) to serve as the record in case of judicial review, except for interagency review materials (section 307(d)(7)(A)).

C. Office of Management and Budget Reviews

1. *Paperwork Reduction Act.* There are no information collection requirements associated with this proposed rulemaking.

2. Under Executive Order 12291, EPA must judge whether a regulatory action is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This proposed rulemaking is not major because it makes minor clarifying revisions to an existing regulation and, therefore, results in none of the significant adverse economic effects described in the Order.

This rulemaking was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB to EPA and any EPA response to those comments are included in Docket No. A-81-21. The

docket is available for public inspection at EPA's Central Docket Section that is listed under the ADDRESSES section of this notice.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a Regulatory Flexibility Analysis in those instances where small business impacts are possible. Because these proposed minor revisions impose no adverse economic impacts, a Regulatory Flexibility Analysis has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 61

Air pollution control, Asbestos, Benzene, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

Dated: September 12, 1989.

William K. Reilly,
Administrator.

For the reasons set forth in the preamble, it is proposed to amend 40 CFR part 61 as follows:

PART 61—[AMENDED]

1. The authority citation for part 61 continues to read as follows:

Authority: Sections 101, 112, 114, 116, 301, Clean Air Act as amended; 42 U.S.C. 7401, 7412, 7414, 7416, 7601.

2. Section 61.61 is amended by revising paragraphs (o), (w), (x), (y), and (z) to read as follows:

§ 61.61 Definitions.

(o) *Ethylene dichloride purification* includes any part of the process of ethylene dichloride purification following ethylene dichloride formation, but excludes crude, intermediate, and final ethylene dichloride storage tanks.

(w) *Leak* means any of several events that indicate interruption of confinement of vinyl chloride within process equipment. Leaks include events regulated under subpart V of this part such as:

(1) An instrument reading of 10,000 ppm or greater measured according to Method 21 (see appendix A of 40 CFR part 60);

(2) A sensor detection of failure of a seal system, failure of a barrier fluid system, or both;

(3) Detectable emissions as indicated by an instrument reading of greater than 500 ppm above background for equipment designated for no detectable emissions measured according to Test Method 21 (see appendix A of 40 CFR part 60); and

(4) In the case of pump seals regulated under § 61.242-2, indications of liquid dripping constituting a leak under § 61.242-2.

Leaks also include events regulated under § 61.65(b)(8)(i) for detection of ambient concentrations in excess of background concentrations. A relief valve discharge is not a leak.

(x) *Exhaust gas* means any offgas (the constituents of which may consist of any fluids, either as a liquid and/or gas) discharged directly or ultimately to the atmosphere that was initially contained in or was in direct contact with the equipment for which exhaust gas limits are prescribed in § 61.62 (a) and (b); § 61.63(a); § 61.64 (a)(1), (b), (c), and (d); § 61.65 (b)(1)(ii), (b)(2), (b)(3), (b)(5), (b)(6)(ii), (b)(7) and (b)(9)(ii); and § 61.65(d). A leak as defined in paragraph (w) of this section is not an exhaust gas. Equipment which contains exhaust gas is subject to § 61.65(b)(8), whether or not that equipment contains 10 percent by volume vinyl chloride.

(y) *Relief Valve Discharge* means any nonleak discharge through a relief valve.

(z) *3-hour period* means any three consecutive 1-hour periods (each commencing on the hour), provided that the number of 3-hour periods during which the vinyl chloride concentration exceeds 10 ppm does not exceed the number of 1-hour periods during which the vinyl chloride concentration exceeds 10 ppm.

3. Section 61.65 is amended by revising paragraphs (a) and (b)(8) introductory text, and adding paragraph (d) to read as follows:

§ 61.65 Emission standard for ethylene dichloride, vinyl chloride and polyvinyl chloride plants.

(a) *Relief valve discharge.* Except for an emergency relief discharge, and except as provided in § 61.65(d), there is to be no discharge to the atmosphere from any relief valve on any equipment in vinyl chloride service. An emergency relief discharge means a discharge which could not have been avoided by taking measures to prevent the discharge. Within 10 days of any relief valve discharge, except for those subject to § 61.65(d), the owner or operator of the source from which the relief valve discharge occurs shall submit to the Administrator a report in writing

containing information on the source, nature and cause of the discharge, the date and time of the discharge, the approximate total vinyl chloride loss during the discharge, the method used for determining the vinyl chloride loss (the calculation of the vinyl chloride loss), the action that was taken to prevent the discharge, and measures adopted to prevent future discharges.

(b) * * *

(6) *Opening of equipment.* Vinyl chloride emissions from opening of equipment (excluding crude, intermediate, and final EDC storage tanks, but including prepolymerization reactors used in the manufacture of bulk resins and loading or unloading lines that are not opened to the atmosphere after each loading or unloading operation) are to be minimized as follows:

* * *

(d) A RVD that is ducted to a control device that is continually operating while emissions from the release are present at the device is subject to the following requirements:

(1) A discharge from a control device other than a flare shall not exceed 10 ppm (average over a 3-hour period) as determined by the continuous emission monitor system required under § 61.68. Such a discharge is subject to the requirements of § 61.70.

(2) For a discharge routed to a flare, the flare shall comply with the requirements of § 60.18.

(i) Flare operations shall be monitored in accordance with the requirements of §§ 60.18(d) and 60.18(f)(2). For the purposes of § 60.18(d), the volume and component concentration of each relief valve discharge shall be estimated and calculations shall be made to verify ongoing compliance with the design and operating requirements of §§ 60.18 (c)(3) through (c)(6). If more than one relief valve is discharged simultaneously to a single flare, these calculations shall account for the cumulative effect of all such relief valve discharges. These calculations shall be made and reported quarterly for all discharges within the quarter. Failure to comply with any of the requirements of this paragraph will

be a violation of § 61.65(d)(2).

Monitoring for the presence of a flare pilot flame shall be conducted in accordance with § 60.18(f)(2). If the results of this monitoring or any other information shows that the pilot flame is not present 100 percent of the time during which a relief valve discharge is routed to the flare, the relief valve discharge is subject to the provisions of § 61.65(a).

(ii) A report describing the flare design shall be provided to the Administrator not later than 90 days after the adoption of this provision or within 30 days of the installation of a flare system for control of relief valve discharge whichever is later. The flare design report shall include calculations based upon expected relief valve discharge component concentrations and net heating values (for PVC this calculation shall be based on values expected if a release occurred at the instant the polymerization starts); and estimated maximum exit velocities based upon the design throat capacity of the gas in the relief valve.

4. Section 61.68 is amended by revising the first sentence in paragraph (b) to read as follows:

§ 61.68 Emission monitoring.

* * *

(b) The vinyl chloride monitoring system(s) used to meet the requirement in paragraph (a) of this section is to be a device which obtains representative samples from one or more applicable emission points on a continuous sequential basis and analyzes the samples with gas chromatography or, if the owner or operator assumes that all hydrocarbons measured are vinyl chloride, with infrared spectrophotometry, flame ion detection, or an alternative method. * * *

* * *

5. Section 61.242-2 of subpart V is amended by revising paragraph (d) introductory text, (d)(5) and (d)(6) and by adding paragraphs (d)(4) (i), (ii) and (iii) to read as follows:

§ 61.242-2 Standards: Pumps.

* * *

(d) Each pump equipped with a dual mechanical seal system that includes a barrier fluid system is exempt from the requirements of paragraphs (a) and (b) of this section, provided the following requirements are met:

(4) * * *

(i) If there are indications of liquid dripping from the pump seal at the time of the weekly inspection, the pump shall be monitored as specified in § 61.245 to determine the presence of VOC and VHAP in the barrier fluid.

(ii) If the monitor reading (taking into account any background readings) indicates the presence of VHAP, a leak is detected. For the purpose of this paragraph, the monitor may be calibrated with VHAP, or may employ a gas chromatography column to limit the response of the monitor to VHAP, at the option of the owner or operator.

(iii) If an instrument reading of 10,000 ppm or greater (total VOC) is measured, a leak is detected.

(5) Each sensor as described in paragraph (d)(3) of this section is checked daily or is equipped with an audible alarm.

(6)(i) The owner or operator determines, based on design considerations and operating experience, criteria applicable to the presence and frequency of drips and to the sensor that indicates failure of the seal system, the barrier fluid system, or both.

(ii) If indications of liquids dripping from the pump seal exceed the criteria established in paragraph (d)(6)(i) of this section, or if, based on the criteria established in paragraph (d)(6)(i) of this section, the sensor indicates failure of the seal system, the barrier fluid system, or both, a leak is detected.

(iii) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in § 61.242-10.

(iv) A first attempt at repair shall be made no later than five calendar days after each leak is detected.

* * *

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