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July 17, 1974

Mr. David R. Bell
Office of Standards Development
Occupational Safety and
Health Administration
U.S. Department of Labor
Room 500
1726 M Street, N.W.
Washington, D. C. 20210

Re: Draft Environmental Impact
Statement on Proposed Action
to Limit Exposure of Workers
to Vinyl Chloride

Dear Mr. Bell:

Responsive to Assistant Secretary John H. Stender's
June 17, 1974 "Memorandum for Recipients of the Draft En-
vironmental Impact Statement on Proposed Regulation--Vinyl
Chloride", the following Comments are hereby submitted to
the Office of Standards Development of the Occupational
Safety and Health Administration (OSHA) on behalf of our
client, The Society of the Plastics Industry, Inc. (SPI)
and its Vinyl Chloride and Polyvinyl Chloride Resin Pro-
ducers Committee. 1/

1/ The Society of the Plastics Industry, Inc. (SPI) is a
Corporation organized under the Not-For-Profit Corporation
Law of the State of New York. It is composed of approxi-
mately 1400 member companies and individuals 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, its membership being
responsible for an estimated 75% of the total dollar volume
of sales of plastics in this country. A more complete (cont'd)

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It should be noted at the outset that the following Comments are being submitted for your consideration with full recognition of the fact that Dr. Daniel P. Boyd, Director of the Office of Standards Development, clearly stated on the record at the recent OSHA Hearings on the proposed permanent standard for occupational exposure to vinyl chloride that, to the extent any interested party testified regarding the proposed permanent standard, such testimony will be considered as that party's comments on the Draft Environmental Impact Statement referenced above. 2/ In light of Dr. Boyd's statement, in the following paragraphs we have simply summarized the basic SPI positions on the proposed standard and are requesting that the views expressed be considered along with the entire record as a statement of SPI's Comments on the Draft Environmental Impact Statement.

I. STATEMENT OF POSITION

1. The positions of the Society and the members of its Vinyl Chloride and Polyvinyl Chloride Resin Producers Committee on the technological feasibility and economic impact issues relative to the proposed standard were presented in depth at the recently concluded OSHA Hearings, and, in our view, stand generally uncontroverted by factual evidence. We respectfully submit that a "no detectable" level of vinyl chloride in the workplace is (a) infeasible, (b) unwarranted, and (c) therefore, beyond the intent and scope of the Occupational Safety and Health Act and the case law developed to date.

2. More specifically, SPI and many other parties participating in the referenced Hearing repeatedly provided hard data showing that the proposed "no detectable" level of vinyl chloride is technologically infeasible to

1/ (cont'd) discussion of the interest of the Society in this entire matter is set forth in the Occupational Safety and Health Administration Hearings, In the Matter Of: PROPOSED PERMANENT STANDARD FOR OCCUPATIONAL EXPOSURE TO VINYL CHLORIDE, Transcript at 330 et seq., June 26, 1974. (Hereinafter cited as: Transcript at _____, (date) .).

2/ Transcript at 1110, 1111, July 8, 1974.

achieve because the vinyl chloride monomer and polyvinyl chloride producers, in the present state of the art, cannot completely eliminate vinyl chloride exposure in their manufacturing operations. This most vital element of the Society's position was not countered by even a scintilla of evidence showing that a "no detectable" exposure limitation is technologically feasible. Furthermore, no evidence was adduced at the Hearings that would controvert the Society's position that the imposition of an infeasible exposure level would result in a shut-down of the vinyl chloride and polyvinyl chloride industries.

3. It is also SPI's position with respect to the proposed standard that the medical and scientific evidence alleged as the basis for proposing the complete insulation of the work force from minimal vinyl chloride exposure is not sufficient to warrant the conclusion that more reasonable exposure limitations would cause an undue hazard to employees. The Society's view is that the toxicity of vinyl chloride does justify limiting exposure levels but that the industry's alternative proposals to a "non-detectable" level give reasonable assurance that any hazard will be reasonably delimited and that employees will be protected from exposure to dangerous levels of vinyl chloride in the breathing zone.

4. Furthermore, medical experts testifying on behalf of the Society and others urged that the human experience data assembled is entitled, on toxicological grounds, to far greater weight than the inconclusive animal test data presented. Additionally, the human experience data justifies those exposure limitations which the industry considers feasible now and in the future. Considering all the testimony given at the Hearings, it is submitted that the tenor of the composite medical opinion was that the human experience data indicates that human toxicity problems associated with vinyl chloride stem from a time period when occupational exposure to vinyl chloride was at a considerably higher level than currently exists under the Emergency Temporary Standard.

II. COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT

5. OSHA's Draft Environmental Impact Statement is premised on the finalization of the current proposal without

change, the conclusion that the proposed standard is technologically feasible, and a presumption that the animal toxicology data mitigates against human exposure at levels above "non-detectable". SPI takes exception to these general propositions and urges that they be revised in the final Environmental Impact Statement insofar as evidence adduced during the Hearing and otherwise contained in the record illustrates that these premises are invalid.

6. With regard to the outline of the proposed standard at Pages 53-60 in the Draft Environmental Impact Statement, the Society's specific comments on the details of the proposed standard are a matter of record and can be found in the transcript of the Hearing. 3/

7. The Society, herein addressing the Draft Environmental Impact Statement rather than the proposed standard, takes strong exception, as enumerated below, to the sections in the Draft Environmental Impact Statement dealing with: "VI. Probable Impact of the Proposed Standard" at Pages 60-65 and "VIII. Alternatives" at Pages 73-75.

8. The Probable Impact section begins with the conclusion that adoption of the proposed standard will result in a workplace free of vinyl chloride exposure and result in less vinyl chloride escaping into the ambient air. It is stated also that compliance costs will threaten marginal firms, raise the price for PVC, and encourage the substitution of other materials but that high reliance on PVC will reduce demand elasticity despite these price changes. The Draft likewise postulates that other costs associated with compliance are deemed capable of internalization.

9. While understanding that the Draft Environmental Impact Statement was prepared prior to the conduct of the above-referenced Hearings and that the evidence adduced at those Hearings consolidated considerable background and expertise upon which OSHA's ultimate decision will be reached, the Society is compelled to note that, in its view, the Draft Statement itself offers no documentation

3/ Transcript at 300-685, June 26-27, 1974 (and elsewhere throughout the record).

or supporting evidence for the conclusions reached. In fact, it is respectfully submitted that the evidence gathered through the hearing process just completed indicates that it is technologically infeasible to achieve the proposed "no detectable" level of exposure in the workplace, that this technological infeasibility is not primarily economically related, and that substitutes for PVC are not in adequate supply. 4/

10. At Page 62 in the Draft Statement it is indicated that the proposed standard favors engineering and work practice methods that would reduce the exposure level and, at Page 64 and elsewhere, it is indicated that these engineering and work practice methods should include improved ventilation, air filtration, and housekeeping. Testimony at the Hearing indicates that engineering and work practice methods could reduce but not eliminate exposure to vinyl chloride in the workplace. It is submitted that the record is replete with information on these points and that such should be reviewed in great detail prior to the finalization of this Statement so that the environmental analysis will be based on a more accurate assessment of the state of the technology.

11. On the same page the Draft addresses supply problems, specifically with regard to personal protective equipment, that should be expected to occur with the implementation of a regulation such as is now proposed. Supply shortages, and lead-time for ordering and installing various types of equipment to reduce vinyl chloride concentrations in the workplace were addressed at length throughout the course of the Hearings. SPI submits that, since indications were that order placement and installation lead-time are currently running in excess of 20 months, this factor must be addressed in more detail in the final Statement.

12. Again on Page 62, the Draft states that preliminary assessments of the cost of compliance indicate that the expenditures to achieve such compliance will not be prohibitive. Without addressing the economics involved in detail here, reference should again be made to the statements in the record concerning ability to comply

4/ Transcript at 350 et seq., June 26, 1974 and at 455 et seq., June 26, 1974.

with the proposed standard; the testimony simply does not support the conclusion that economic consequences may not be prohibitive. Moreover, review of the Draft does not indicate that the preliminary assessment of cost of compliance is supported by the data in Appendix C. This Appendix indicates, at Page 6, that control technology is available, and in some cases installed, for limiting vinyl chloride exposure. However, we have found nothing in Appendix C to indicate that technology which would eliminate exposure to vinyl chloride is either available or installed.

13. We hasten to emphasize this point because, on Page 63 of the Draft, it is stated that since the technology appears to be readily available and existing practices already result in low exposure levels, some hazardous function operations, housecleaning and maintenance improvements required notwithstanding, the conclusion is that substantial development costs for vinyl chloride control technology will not be incurred. Continuing on the same page, there is a statement that no evidence exists to date indicating that the promulgation of the proposed standard will stop vinyl chloride production and use. Again, Appendix C does not support this conclusion and the evidence now in the hearing record as a minimum tends to controvert it almost completely. As a conclusion, its only support seems to stem from the statement on Page 64 indicating that PVC-reliant customers can be expected to sustain the industry despite the increased costs of polyvinyl chloride end products.

14. However, as pointed out above, industry members repeatedly pointed out during the course of the Hearings that the technology required to achieve a "no detectable" level of occupational exposure to vinyl chloride simply does not exist. Consequently, it is respectfully submitted that the final Statement should address the question of available technology in depth and in a more realistic light. Since compliance with the proposed standard would be absolutely predicated upon the existence of technical know-how, SPI submits that it is essential that the final Statement address and resolve these questions and the probable effects of such a standard on an industry unable to achieve compliance.

15. Turning now to the treatment of "Alternatives" at Pages 73 through 75, the options OSHA sees available

could be simply restated as (1) a ban on vinyl chloride production, (2) adoption of the current proposal, (3) retention of the Emergency Temporary Standard, (4) complete reliance on personal protective equipment and (5) an occupational exposure limitation somewhere between 1 and 50 parts per million (ppm).

16. The first alternative, a ban on polyvinyl chloride production, is not, it is submitted, a viable alternative because (1) such action would be contrary to the public interest as a matter of common sense, and (2) the Occupational Safety and Health Act does not contemplate elimination of any industry. It is, therefore, urgently submitted that, since legal authority for such an action is lacking, further consideration of a ban as an alternative is inappropriate.

17. Insofar as the second alternative deals with the instant proposal, the comments in the preceding paragraphs hereof on Probable Impact are wholly applicable and indicate the inaptness of this approach.

18. Alternative number 3, retention of the current 50 ppm exposure level specified by the Emergency Temporary Standard, is stated, on Page 73, to have been rejected as inadequate because animal tests "indicate that exposure to vinyl chloride at 50 ppm may well constitute a serious health hazard to employees." This statement implies that the conclusion is justified not only by animal toxicity studies but that such animal experience can be directly extrapolated to human experience.

19. It is respectfully suggested that this conclusion is no longer supported by the available evidence. During the referenced Hearings, considerable new evidence, interpretations and further reports on animal studies being conducted and their relationship to human experience were introduced into the record. It is the SPI position that in addition to the ongoing animal studies being conducted, some of which were referenced in the Draft Environmental Impact Statement, careful attention in the final Statement must be directed to the human experience data presented ^{5/} and the new toxicological research studies reported. ^{6/}.

^{5/} See, e.g., Transcript at 500, et seq., June 26, 1974.

^{6/} See, e.g., Transcript at 955, et seq., June 28, 1974.

20. At Page 74, the last alternative offered in the draft Statement refers to the "judgemental" [sic] selection of an exposure level between 1 and 50 ppm. Such an alternative is stated to be viable only assuming that disease in man from vinyl chloride exposure is dose related and low levels are not hazardous to man.

21. Since this is precisely the essence of the medical and scientific evidence given in the Hearings, it is respectfully submitted that such evidence, entered into the record subsequent to the time when the Draft Environmental Impact Statement was prepared, should be thoroughly reviewed and given great weight prior to preparation of the final Statement. It is our view that the medical and scientific data specifically indicate a dose related response and that industry will do everything feasible to reduce the dose/exposure levels of vinyl chloride. This "Alternative," therefore, appears a feasible one, as does alternative three.

22. Finally, Appendix C, the Industrial Hygiene Survey Report on Vinyl Chloride and Polyvinyl Chloride Manufacturing Facilities, states, at Page 6, that vinyl chloride control technology is available and installed in some cases but that a reasonable time should be allowed for implementation of further engineering control methods such as local exhaust ventilation systems. It is important to note that this report does not and should not state or be interpreted to imply that the VCM exposure control technology currently available and implemented by the industry is capable of eliminating vinyl chloride exposure or making it possible for producers and manufacturers to reach a "no detectable" exposure level in the foreseeable future.

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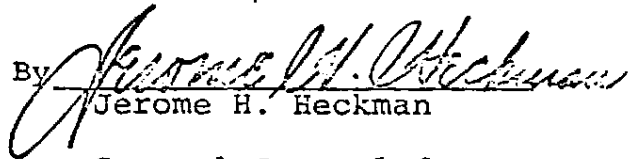
THESE PREMISES CONSIDERED, it is respectfully submitted that the Draft Environmental Impact Statement should be revised extensively so that the final Statement more completely and accurately addresses all of the issues as they have now been more fully developed. It is the

Society's view that unless the draft is so changed, the final Environmental Impact Statement may well lack the balance and objectivity required by the National Environmental Policy Act.

Respectfully submitted,

THE SOCIETY OF THE PLASTICS
INDUSTRY, INC.

By



Jerome H. Heckman

General Counsel for
The Society of the Plastics
Industry, Inc.