March 31, 2017

Submitted electronically to the Federal eRulemaking Portal (www.regulations.gov):

Attention Docket ID Number: DOC-2017-0001

Mr. Carter Halfman
Office of Policy and Strategic Planning
Department of Commerce
H.C. Hoover Building Rm. 5863
1401 Constitution Ave. NW
Washington, DC 20230

RE: U.S. Department of Commerce's Request for Information on the "Impact of Federal Regulations on Domestic Manufacturing"

Dear Mr. Halfman:

The Vinyl Institute (VI)[1] is pleased to submit this response to the U.S. Department of Commerce's March 7, 2017 (82 Fed. Reg 12786) Request for Information (RFI) on the impact of Federal regulations on domestic manufacturing.

VI member companies are impacted by a wide variety of regulatory requirements that add unnecessary costs and delays to the manufacture of polyvinyl chloride (PVC) resins and the primary materials needed for PVC resin manufacturing, such as vinyl chloride (VCM).

As such, VI members look forward to working with the Secretary of Commerce and other Federal agencies to streamline the Federal permitting process for domestic manufacturing and to reduce regulatory burdens affecting domestic manufacturers.

Sincerely,

Richard Krock
Vice President, Regulatory and Technical Affairs

[1] The Vinyl Institute (VI), a U.S. trade association founded in 1982, represents vinyl resin, monomer, and additive producers. The VI serves as the collective voice for the vinyl industry, engaging industry stakeholders in shaping the future of the vinyl industry. More information about the Vinyl Institute can be found on our website: www.vinylinfo.org.

I. Overview and General Information

The VI member facilities that are the subject of these comments manufacture basic organic chemicals, such as Vinyl Chloride Monomer (VCM) and Polyvinyl Chloride (PVC) resins. The NAICS code for these facilities is 32511, *Plastics Material and Resin Manufacturing*. The facilities are located in Delaware, Kentucky, Louisiana, Mississippi, New Jersey, and Texas. A typical large volume combined VCM and PVC site has approximately 600 employees but this can vary significantly depending on the complexity of the complex. VI estimates annual sales of VCM and PVC resin to be approximately $15 billion. PVC resin is the basic building block (raw material) for annual sales of plastic products estimated to be approximately $30 billion.

II. Manufacturing Permitting Process

VI's responses to the manufacturing and permitting process questions in the Department of Commerce's Request for Information are provided below.

#1: How many permits from a Federal agency are required to build, expand or operate your manufacturing facilities? Which Federal agencies require permits and how long does it take to obtain them?

The typical number of Federal permits that a VCM/PVC facility must obtain will vary according to the size and location of the facility. A typical VCM/PVC facility would need to obtain and operate under the following types of Federal environmental permits, which are identified below.

Prevention of Significant Deterioration (PSD)/Nonattainment New Source Review (NNSR) Air Permit for Traditional Pollutants (e.g., NOx, VOC): This type of permit is required under the Clean Air Act (CAA) if a new "greenfield" facility is being constructed or an existing facility is modified or reconstructed (e.g., expanded) such that the amount of traditional pollutants emitted trigger such an action. The State environmental agency generally issues the air permit, but EPA oversees the program and reviews each permit prior to issuance. Construction of a new or expanded facility cannot begin until final approval is received. It generally takes 2 years to obtain final State agency approval, assuming no adverse public comments are received during the notice-and-comment period and EPA does not oppose the permit. A PSD permit must be renewed every 10 years.

PSD Air Permit for Greenhouse Gases (e.g., carbon dioxide, methane): This type of permit is required if a new "greenfield" facility is constructed or an existing facility is modified such that the amount of greenhouse gases (GHG) emitted trigger such an action. The State or EPA, depending on whether the State has been delegated authority by EPA, issues a GHG permit either combined with a traditional pollutant PSD permit or as a separate PSD permit. Construction on the project cannot begin until final approval is received. It generally takes 1.5 to 2 years to obtain final approval, assuming no adverse public comments are received during the notice-and-comment period and EPA does not oppose the permit. As previously noted, a PSD permit must be renewed every 10 years.

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Title V Operating Air Permit: This type of permit is required for any CAA Title V-defined "major source." Most, if not all, VCM/PVC facilities would be considered "major sources" under Title V. This permit is an operating permit that identifies all CAA requirements (emission limits, testing, monitoring, recordkeeping, and reporting) that apply to a facility. A typical permit is more than 100 pages long. The Title V permit must be renewed every 5 years. This short renewal frequency is burdensome.

National Pollutant Discharge Elimination System (NPDES) Water Permit: VCM/PVC facilities use water for cleaning equipment, cooling, and other process uses. Permits are required under the Clean Water Act NPDES to discharge wastewater from a VCM/PVC facility, either directly to a "water of the United States" under a NPDES permit or through a publicly owned wastewater treatment facilities (POTW) in accordance with pretreatment standards. Thus, each facility must obtain one or more NPDES permits for wastewater discharge. NPDES permits can take 1-5 years, or more, to obtain or renew depending if the discharge is direct (longer) or to POTW (shorter) and how complex the processing facility is.

Wetland Individual Permits: Construction activities in wetlands that involve more than minimal impacts to the construction area require an individual permit under Section 404 of the Clean Water Act. The permitting process typically begins with a permit application to the US Army Corps of Engineers and includes oversight from EPA. The dual Agency approval process can take at least 1 year.

Resource Conservation and Recovery Act (RCRA) Permit: Any VCM/PVC facility that treats, stores, or disposes of hazardous waste must obtain a RCRA permit from the State or EPA. The State/Federal approval process can take at least 18-24 months.

#2: Do any of the Federal permits overlap with (or duplicate) other federal permits or those required by State or local agencies? If the answer is yes, how many permits? From which Federal agencies?

Generally, the activities covered by the permits described above do not overlap. However, delays can occur when EPA's involvement triggers a full Federal regulatory review under the National Environmental Policy Act (NEPA). This can occur, for example, in a state that has not developed its own GHG PSD permitting program. If such a "cross cutting" (overlapping) Federal review is triggered, then several levels of Federal review are required, including:

- A Cultural Resources Survey, as required by Section 106 of the National Historic Preservation Act (NHPA) of 1966;
- An Essential Fish Habitat (EFH) Assessment under the Magnuson-Stevens Fishery Conservation and Management Act, which is conducted by the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS); and
- Implementation of protections for endangered species or species of concern (e.g., Whooping Crane) by the US Fish and Wildlife Service (USFWS).

Involvement of other Federal agencies beyond EPA typically adds 6-8 months of extra review time, in addition to the time and effort that a facility must spend to develop the necessary reports for the "cross-cutting" agencies to review.

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#3. Briefly describe the most onerous part of your permitting process.

Air permits are the most onerous permits that must be obtained by VI member company facilities. Developing air permit applications that satisfy Federal/State permitting rules takes 6-8 months for a major expansion and necessitates the retention of outside consultants and experts. This includes:

- Air modeling consultants and experts to demonstrate that a project does not "cause or contribute" to a violation of a National Ambient Air Quality Standard (NAAQS); and
- Third party consultants to advise on emission control mechanisms, permitting strategies, and more.

#4. If you could make one change to the Federal permitting process applicable to your manufacturing business or facilities, what would it be? How could the permitting process be modified to better suit your needs?

EPA should consider modifying the PSD/NNSR permitting process to streamline the process so that domestic manufacturing projects can start construction in less than 2 years after permit application submittal. Given the CAA statutory requirements to provide for public participation in the permitting process,[2] opportunities for speeding the permitting process likely would involve streamlining internal and interagency review.

#5. Are there Federal, State, or local agencies that you have worked with on permitting whose practices should be widely implemented? What is it you like about those practices?

The Louisiana and Texas State environmental agencies have a mechanism to "expedite" the air permitting process without compromising the agencies' critical review. The process includes an extra fee to support permit writers' overtime but the fee is nominal compared to the quicker permit application review time; typical expedited permit approvals can be 4-6 months faster than the normal track. Other State and Federal agencies should provide similar options for companies to fund a fast track process.

III. Regulatory Burden/Compliance

VI's responses to the regulatory burden and compliance questions in the Department of Commerce's Request for Information are provided below.

#1. Please list the top four regulations that you believe are most burdensome for your manufacturing business. Please identify the agency that issues each one. Specific citation of codes from the Code of Federal Regulations would be appreciated.

The four most burdensome regulations, in order, for VI members manufacturing VCM and/or PVC are as follows:

1. The PVC MACT (40 CFR Part 63 Subparts DDDDDD and HHHHHHH) – PVC manufacturing facilities must comply with the CAA section 112 standards for major sources and area sources, which include numerical

[2] *See, e.g.*, 42 U.S.C. § 7661a(b)(6).

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emission limits, work practice standards, recordkeeping requirements, and reporting requirements. The requirements of the PVC MACT are incorporated into the facility's Title V operating permit.

2. The CAA Risk Management Program (40 CFR Part 68) – This rule, which substantially overlaps the requirements of the OSHA Chemical Process Safety Standard, requires facilities to develop, implement and submit an overly burdensome and bureaucratic risk management program for all covered processes at a facility.
3. NAAQS State Implementation Plans and Federal Implementation Plans (40 CFR Parts 50 & 58) – State Implementation Plans and Federal Implementation Plans impose requirements on manufacturing facilities. The provisions implementing National Ambient Air Quality Standards (NAAQS) for NO_x and ozone are particularly burdensome.
4. CAA Leak Detection and Repair Regulations (40 CFR Part 60 Subparts VV, VVa; 40 CFR Part 61 Subpart V; 40 CFR Part 63 Subparts H, UU) – There are numerous CAA regulations that require leak detection and repair (LDAR) programs for certain equipment at facilities (e.g., valves and pumps), each with their own nuances.

A complete list of Federal regulations applicable to a facility producing VCM and PVC is enclosed with these comments as **Attachment 1**. As an example of the significance of the regulatory burden applicable to these facilities, the VI's previously submitted comments on the Information Collection Request renewals for major and area source PVC facilities are enclosed as **Attachment 2 and Attachment 3** respectively.

#2. How could regulatory compliance be simplified within your industry or sector?

VI has submitted detailed recommendations in comments and other correspondence to EPA on how the compliance requirements for the top four most burdensome regulations identified in the preceding response could be improved and simplified. Although VI recognizes that regulatory changes must be addressed by the responsible agency, the following high-level summary of these issues may be illustrative for the Department of Commerce:

1. The PVC MACT – VI members have been waiting for EPA to complete its statutorily-required reconsideration of this rule for more than four years. EPA must correct errors in the regulation and make changes to the rule language to improve clarity, remove ambiguities, and remove unnecessary requirements.
2. The CAA Risk Management Program – This rule is currently under EPA reconsideration, after EPA made final changes in January 2017 which require security- sensitive information to be publicly disclosed, along with several other new requirements that are problematic.
3. NAAQS State Implementation Plans and Federal Implementation Plans – The statutorily driven 5-year review cycle for NAAQS is too short. It does not allow enough time to achieve the goals of pre-existing NAAQS. This puts unnecessary pressure on states and industry trying to comply. This could be corrected by increasing the statutory review time to an interval that is more reasonable and allows full achievement of the pre-existing NAAQS and reduces economic hardship.
4. CAA Leak Detection and Repair Regulations – Simplification and consolidation of the multiple LDAR rules applicable to VCM/PVC facilities would minimize compliance complexity and regulatory burden.

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In addition to the above, VI notes that EPA continues to use consent agreements as a driver for industry-wide ratcheting of compliance requirements. Specifically, EPA has used the enhanced controls required in consent agreements as a basis for NSPS/MACT rulemakings. This is inappropriate. Consent agreements are punitive in nature and are not representative of market-based best available control technologies.

#3. Please provide any other specific recommendations, not addressed by the questions above, that you believe would help reduce unnecessary Federal agency regulation of your business.

Agencies should take a collaborative rather than confrontational approach to regulation. Enhancing rules for ease of compliance and simplifying administration, through cooperative rulemaking and EPA guidance, reduces industry and EPA burden alike.

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ATTACHMENT #1:

Table of Applicable EPA Title 40 Code of Federal Regulations Provisions

Type	Part(s) / Subpart(s)	Name
Federal Air Regulations		
New Source Performance Standards	Part 60 Subpart A	General Provisions
	Part 60 Subpart Db	Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units
	Part 60 Subpart Dc	Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units
	Part 60 Subpart Kb	Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels)
	Part 60 Subpart GG	Standards of Performance for Stationary Gas Turbines
	Part 60 Subpart VV	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry (SOCMI)
	Part 60 Subpart VVa	Standards of Performance for Equipment Leaks of VOC in SOCMI
	Part 60 Subpart III	Standards of Performance for VOC Emissions from SOCMI Air Oxidation Unit Processes
	Part 60 Subpart NNN	Standards of Performance for VOC Emissions from SOCMI Distillation Operations
	Part 60 Subpart RRR	Standards of Performance for VOC from SOCMI Reactor Processes
	Part 60 Subpart IIII	Standards of Performance for Stationary Compression Ignition Internal Combustion Engines
	Part 60 Subpart JJJJ	Standards of Performance for Stationary Spark Ignition Internal Combustion Engines
	Part 60 Subpart KKKK	Standards of Performance for Stationary Combustion Turbines
National Emission Standards for Hazardous Air Pollutants (NESHAP)	Part 61 Subpart A	General Provisions
	Part 61 Subpart F	National Emission Standard for Vinyl Chloride
	Part 61 Subpart V	National Emission Standard for Equipment Leaks (Fugitive Emission Sources)
	Part 61 Subpart FF	National Emission Standard for Benzene Waste Operations
	Part 63 Subpart A	General Provisions
	Part 63 Subpart F, G, H	SOCMI MACT (a.k.a. HON Rule)
	Part 63 Subpart Q	Industrial Process Cooling Towers MACT
	Part 63 Subpart T	Halogenated Solvent Cleaning MACT
	Part 63 Subpart UU	Equipment Leaks - Control Level 2 Standards
	Part 63 Subpart EEEE	Organic Liquids Distribution (Non-Gasoline) MACT
	Part 63 Subpart YYYY	Stationary Combustion Turbines MACT
	Part 63 Subpart ZZZZ	Stationary Reciprocating Internal Combustion Engines MACT
	Part 63 Subpart DDDDD	Boiler MACT

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Type	Part(s) / Subpart(s)	Name
	Part 63 Subpart GGGGG	Site Remediation MACT
	Part 63 Subpart NNNNN	Hydrochloric Acid Production MACT
	Part 63 Subparts DDDDDD and HHHHHHH	PVC MACT
CAA Risk Management Program	Part 68 Subparts A thru H	Risk Management Program
Ozone Depleting Substances	Part 82 Subpart A	Production and Consumption Controls
	Part 82 Subpart B	Servicing of Motor Vehicle Air Conditioners
	Part 82 Subpart E	The Labeling of Products Using Ozone-Depleting Substances
	Part 82 Subpart F	Recycling and Emissions Reduction
	Part 82 Subpart H	Halon Emissions Reduction
Mandatory Greenhouse Gas Reporting	Part 98 Subpart A, C, X	General Provisions, General Stationary Fuel Combustion Sources, and Petrochemical Production
Prevention of Significant Deterioration (PSD) and State Implementation Plans	Part 52	PSD Preconstruction Permit Rules
National Ambient Air Quality Standards (NAAQS)	Part 50	NAAQS
Title V	Parts 70 and 71	Title V Operating Permit Rules
Federal Water Regulations		
Clean Water Act	Part 203	"Waters of the United States" (Wetlands Permitting) Rulemaking Changes
	Parts 122 and 125	National Pollutant Discharge Elimination System
Safe Drinking Water Act	Parts 144 and 146	Underground Injection Control Program
Federal Waste Regulations		
Resource Conservation and Recovery Act (RCRA)	Part 260	Hazardous Waste Management
	Part 262	Standards Applicable to Generators of Hazardous Waste
	Part 264	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
Additional Federal Regulations		
CERCLA	Part 302	Reportable Quantity Release Reporting
EPCRA	Parts 355 and 372	Toxic Release Inventory (TRI)
TSCA	Part 711	Chemical Data Reporting Rule
	Part 720	Premanufacture Notification
PHMSA, DOT	Part 49 CFR Parts 171-180	Hazardous Materials Transportation

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Attachment 2

Via Regulations.gov

August 26, 2015

U.S. Environmental Protection Agency
c/o OMB Desk Officer
EPA Docket Center
Mail Code 28221T
1200 Pennsylvania Ave. N.W.,
Washington, DC 20460

Re: Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Polyvinyl Chloride and Copolymer Production (Renewal), Docket ID Number EPA-HQ-OECA-2014-0101

The Vinyl Institute (VI) appreciates the opportunity to comment on the renewal of the Information Collection Request (ICR) for the National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymer Production (PVC MACT) for major sources.[1] This ICR represents the U.S. Environmental Protection Agency's (EPA) effort to quantify the burden and cost of the PVC MACT rule for major sources.

The VI is a trade association for manufacturers of raw materials, intermediates and various polyvinyl chloride (PVC) type resins and copolymers in the United States, which are potentially covered by this ICR.[2] Vinyl (PVC) resin is a building block for diverse critical products including medical tubing and blood bags, window frames, water and sewer pipe, flooring, siding, electrical wire insulation and jackets, industrial coatings, and many others.

The VI submits that the ICR renewal underestimates the cost and burden to major sources of complying with the PVC MACT. As noted by EPA, the VI provided comprehensive comments on the burden associated with reporting and recordkeeping requirements under the

[1] *Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Polyvinyl Chloride and Copolymer Production (Renewal)*, 80 Fed. Reg. 44,354 (July 27, 2015). The PVC MACT is codified at 40 C.F.R. Part 63, subpart HHHHHHH.

[2] The Vinyl Institute PVC MACT Working Group has been actively engaged in the PVC MACT rulemaking, and includes VI members Formosa Plastics Corporation, U.S.A., Occidental Chemical Corporation/Oxy Vinyls, LP, MexiChem Specialty Resins Inc., Shintech Inc., Westlake Chemical Corporation, Wacker Chemical Corporation, and Lubrizol Corporation, and non-VI member Axiall Corporation.

PVC MACT earlier in the development of the ICR renewal.[3] Because the time required for most compliance activities under the PVC MACT (*e.g.*, to perform stack tests or to collect samples for analysis) is determined by the number of equipment (*e.g.*, control devices and resin strippers) rather than whether the facility is a major or area source, the VI's previous comments apply equally to area sources and major sources.[4]

As explained in the following sections, the VI believes there are several aspects of the ICR that can be improved to better account for the cost of compliance with the PVC MACT.

I. Table 1 Should be Updated to More Appropriately Represent the Full Three Year Respondent Burden and Cost for Existing Major Sources

The VI appreciates that EPA appears to have reviewed and adopted a number of the VI's suggestions. Nevertheless, the VI sees a significant issue throughout the estimated burdens provided in the supporting statement to the ICR renewal.[5] Fundamentally, the PVC MACT is a new rule that major sources must comply with for the first time during the time period covered by this ICR renewal. The compliance date for the PVC MACT was April 17, 2015. Consequently, this ICR renewal covers the first year of compliance for all major sources. Thus, the ICR must appropriately account for the training, time, and money that must be expended by all major sources to establish initial compliance through initial performance tests, sampling, and reporting, as well as establishing compliance procedures, which requirements by rule apply throughout the first compliance year. For example, Table 1 to the supporting statement notes the hours required for initial performance testing for six regulated areas (Burden Item 3.B.1 a) through f)) but it does not include the costs.[6] By rule, these activities are conducted within 180 days after the compliance date.[7] As such, these activities will occur within the time period included in this ICR and must be included in the burden estimates. The same issue exists for other initial compliance activities and reports that must be completed during the first year following the compliance date (*e.g.*, Burden Items 3.B.3, 3.B.4.a, 3.B.5.a,-.c,-.d, &-.e, 3.E.2, -.3, & -.4). In summary, there should be no Burden Items for which EPA list zero respondents per year where activities occur within 6 months of the initial compliance date.

Similarly, EPA estimates 320 hours per respondent for major sources to become familiar with the rule requirements but does not list any costs (Burden Item 3.A). It is incorrect for EPA to exclude costs here because major existing sources are now subject to this rule for the first time and therefore have the burden initially and annually. The PVC MACT represents a significant increase in complexity from the previously applicable Vinyl Chloride NESHAP, which necessarily increases the number of hours needed to read and understand the rule. As the rulemaking record for the PVC MACT attests, industry has sought clarification and

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[3] 80 Fed. Reg. at 44,354.

[4] VI comments for the area source ICR were filed to Docket Number EPA-HQ-OECA-2014-0104.

[5] Docket Document No. EPA-HQ-OECA-2014-0101-0004.

[6] Docket Document No. EPA-HQ-OECA-2014-0101-0004 at 14.

[7] 40 C.F.R. § 63.11900(a).

reconsideration of a number of issues in the rule.[8] Many of these issues remain outstanding. Moreover, the PVC MACT rule differs in significant ways from historical and more recent MACT rules, which makes EPA guidance on those rules inapplicable. In the absence of a clear rule or explicit guidance on the PVC MACT from EPA, major sources will continue to expend significant effort to develop and implement a compliance program for the PVC MACT, in both the first year of compliance and beyond.

In addition, a reconsidered rule with new limits for major sources is virtually certain given that EPA conducted significant additional Section 114 data collection for process vents, wastewater, and certain resins. Given that a reconsidered PVC MACT rule will be proposed in late 2015 and finalized in 2016, employees will need additional hours to become familiar with the changed requirements in the near future. Therefore, an estimate of 40 hours per employee, two employees per shift, and four shifts per existing source (for a total of 320 hours per facility) is an appropriate number of hours for EPA to estimate for at least the first several years of compliance.

Table 7 of the PVC MACT rule requires annual or more frequent calibration of continuous parameter monitoring systems for 8 separate parameters that are required in Table 5 of the rule for process vents. Calibration of instruments that measure pH or caustic strength is addressed below in item II.2. EPA should provide estimates for calibrating these instruments used in the CPMS. Currently, there are 29 thermal oxidizers in the major source category that could require 2 parameters (flow to the device and firebox temperature) to be monitored. There are currently 33 absorber/scrubbers associated with these control devices that could require up to 6 parameters (inlet liquid flow, inlet gas flow, pressure drop, exhaust gas temperature, change in scrubber liquid specific gravity, and conductivity of effluent liquid) to be monitored. The tally of instruments involved in CPMS for the major source amounts to 256 instruments (29 x 2 + 33 x 6) that must be calibrated at least annually by qualified instrument technicians, the activity recorded and results included in the annual compliance report. Industry estimates 2 hours per instrument for this function for a total of 512 hours labor annually that EPA should include in its burden estimate.

II. Individual Estimates Should be Adjusted to Match the VI's Previous Comments

We appreciate the Agency's efforts to incorporate the burden estimates from the VI's previous comments into the ICR renewal. We do note, however, that EPA appears to have missed several key points in Attachment A of the VI's comments:

1. For process vent initial performance testing (Burden Item 3.B.1.a), both stack testing and continuous parameter monitoring system (CPMS) testing will be performed. Thus, the number of hours per facility should be 137.1 hours rather than 120 hours.

[8] *See, e.g.*, Letter from Richard Krock, Vinyl Institute, to Andrea Siefers, EPA, *Clarification on Certain Provisions in the National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production* (Apr. 5, 2013), Docket Document No. EPA-HQ-OAR-2002-0037-0560; this document enclosed with these comments for reference. *See also Petition of the Vinyl Institute for Reconsiderationand Request to Stay the Rule Pending Reconsideration (June 18, 2012)*, Docket Document No. EPA-HQ-OAR-2002-0037-0569.

2. For process vent periodic testing,[9] EPA did not include the time required for pH calibration (1.83 devices/facility * 0.5 hours * 3 calibrations/day * 350 days/year) and other calibration activities (16.5 hours/facility per year). Based on EPA's acceptance of the VI estimate of 107,800 hours industry-wide for the process vent CPMS, then the total hours per facility for Burden Item 3.B.2.a should be 6,968 hours when the pH and other calibration activities are included.

3. For both initial and periodic testing for stripped resin (Burden Items 3.B.1.b and 3.B.2.b), EPA included only the time required to perform testing for VC (36 hours per occurrence; daily testing 350 days per year). EPA did not include the time required to perform testing for non-VC TOHAP (3 samples/occurrence * 4 hours/sample; monthly testing). Thus, the number of hours per facility for initial testing should be 48 hours instead of 36 hours and the number of hours per facility per year for periodic testing should be 12,744 hours instead of 12,600 hours.[10]

4. For equipment leaks, EPA used the VI's estimate of 850 hours per facility as the burden for initial compliance, although EPA did not include the eight additional hours per month the VI indicated for reviews of monthly inspections, writing monthly summary reports, and recordkeeping for semi-annual compliance reports. This should be corrected. For ongoing compliance, EPA estimated 43 hours per month for a total of 510 hours per facility per year, stating that only 5% of the initial monitoring time will be required for ongoing monthly leak monitoring. However, the VI maintains that 850 hours per facility per month, plus the eight additional hours EPA did not include for initial compliance, are necessary for accurately representing ongoing compliance. Under the PVC MACT the amount of time needed to monitor accurately is not decreased in subsequent years, nor can an operator's cumulative experience significantly reduce the amount of time needed to accurately monitor the parts subject to these requirements and walk the subject areas of the facility. At most, monthly monitoring for valves can be reduced to quarterly monitoring after demonstrating that the valve leak rate in a unit is less than two percent.[11] EPA should revise this estimate or explain how a 95% reduction in equipment leak monitoring hours can be accomplished.

5. For stripped resin, process wastewater, and uncontrolled wastewater (both initial and periodic testing), the VI's comments stated that analysis for HAPs that are not included in Table 10 of the PVC MACT for latex facilities may be as much as $1,500. EPA should account for testing costs for these additional site-specific analytes in the table on page 9 in the Supporting Statement.

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[9] We also note Table 1 Burden Item 3.B.2.a has an incorrect footnote. It is listed as footnote *i* when it should be footnote *d*.

[10] We also note that there appears to be an error in footnote "a" for Table 1, which states that "Per VI, it is assumed that performance testing for process vents will take 4 hours per sample for 9 samples per facility, initially and daily (350 days per year)." This footnote should refer to stripped resin rather than process vents.

[11] 40 C.F.R. § 63.1025(b)(3)(ii).

6. With regards to the rule's storage vessel provisions the Agency at Table 1, Burden Item 3.B.5.d underestimates the recordkeeping burdens. Specifically, 40 C.F.R. § 63.11910 requires facilities to develop initial inspection plans, standard operating plans and maintenance procedures, and to report compliance. At 40 hours per facility to develop initial and ongoing compliance, inspection, and maintenance plans and procedures, this equals 680 hours initially for the major source group. In addition, industry estimates there are 6 storage and/or pressure vessels on average at each of the 17 facilities that fall under the requirement for annual inspections. By industry estimates, it can take up to 2 hours to inspect a storage vessel for its annual compliance for a total annual labor estimate of 204 hours for the major source category. Standard procedures, compliance, and any deviation must be reported annually. EPA should account for all these monitoring activities in its estimate for storage vessels.

EPA should update the hours and costs in Table 1 to address these issues, in addition to accounting for the initial and ongoing compliance activities at existing sources detailed in Section I of these comments.

* * *

We thank the Agency for its consideration of these comments, as well as its consideration and incorporation of the comments previously provided by the VI. Should the Agency have any questions or require further information, please do not hesitate to contact me.

Respectfully submitted,

Richard Krock
Technical Director
The Vinyl Institute

Attachment 3

Via Regulations.gov

July 30, 2015

U.S. Environmental Protection Agency
c/o OMB Desk Officer
EPA Docket Center
Mail Code 28221T
1200 Pennsylvania Ave. N.W.,
Washington, DC 20460

Re: Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Polyvinyl Chloride and Copolymer Production Area Sources (Renewal)

The Vinyl Institute (VI) appreciates the opportunity to comment on the renewal of the Information Collection Request (ICR) for the National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymer Production (PVC MACT) for area sources.[1] This ICR represents the U.S. Environmental Protection Agency's (EPA) effort to quantify the burden and cost of the PVC MACT rule for area sources.

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The VI submits that the ICR renewal underestimates the cost and burden to area sources of complying with the PVC MACT. As noted by EPA, the VI provided comprehensive comments on the burden associated with reporting and recordkeeping requirements under the PVC MACT earlier in the development of the ICR renewal.[3] Because the time required for most

[1] *Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Polyvinyl Chloride and Copolymer Production Area Sources (Renewal)*, 80 Fed. Reg. 37,246 (June 30, 2015).

[2] The Vinyl Institute PVC MACT Working Group has been actively engaged in the PVC MACT rulemaking, and includes VI members Formosa Plastics Corporation, U.S.A., Occidental Chemical Corporation/Oxy Vinyls, LP, MexiChem Specialty Resins Inc., Shintech Inc., Westlake Chemical Corporation, Wacker Chemical Corporation, and Lubrizol Corporation, and non-VI member Axiall Corporation.

[3] 80 Fed. Reg. at 37,247.

compliance activities under the PVC MACT (*e.g.*, to perform stack tests or to collect samples for analysis) is determined by the number of equipment (*e.g.*, control devices and resin strippers) rather than whether the facility is a major or area source, the VI's previous comments apply equally to area sources and major sources. Nevertheless, equivalent requirements for area and major sources do place a disproportionate burden on area sources because such costs are larger in proportion to the staff size, revenue, and budgets at area sources.

As explained in the following sections, the VI believes there are several aspects of the ICR that can be improved to better account for the cost of compliance with the PVC MACT.

I. Table 1 Should be Updated to More Appropriately Represent the Full Three Year Respondent Burden and Cost for Existing Area Sources

The VI appreciates that EPA appears to have reviewed and adopted a number of the VI's suggestions. Nevertheless, the VI sees a significant issue throughout the estimated burdens provided in the supporting statement to the ICR renewal.[4] Fundamentally, the PVC MACT is a new rule that area sources must comply with for the first time during the time period covered by this ICR renewal. The compliance date for the PVC MACT was April 17, 2015. Consequently, this ICR renewal covers the first year of compliance for all area sources. Thus, the ICR must appropriately account for the training, time, and money that must be expended by all area sources to establish initial compliance through initial performance tests, sampling, and reporting, as well as establishing compliance procedures, which requirements by rule apply throughout the first compliance year. For example, Table 1 to the supporting statement notes the hours required for initial performance testing for process vents (Burden Item 3.B) but it does not include the costs.[5] By rule, these activities are conducted within 180 days after the compliance date.[6] As such, these activities will occur within the time period included in this ICR and must be included in the burden estimates. The same issue exists for other initial compliance activities and reports that must be completed during the first year following the compliance date (*e.g.*, Burden Items 3.E.3, 3.B.5.d). In summary, there should be no Burden Items for which EPA list zero respondents per year.

Similarly, EPA estimates 320 hours per respondent for new sources to become familiar with the rule requirements but only eight hours for existing sources (Burden Item 3.A). It is incorrect for EPA to distinguish between new sources and existing sources, because existing sources are now subject to this rule for the first time and therefore have the same burden as new sources. The PVC MACT represents a significant increase in complexity from the previously applicable Vinyl Chloride NESHAP, which necessarily increases the number of hours needed to read and understand the rule. As the rulemaking record for the PVC MACT attests, industry has sought clarification and reconsideration of a number of issues in the rule.[7] Many of these issues

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[4] Docket Document No. EPA-HQ-OECA-2014-0104-0004.

[5] Docket Document No. EPA-HQ-OECA-2014-0104-0004 at 15.

[6] 40 C.F.R. §§ 63.11142(f)(4), 63.11900(a).

[7] *See, e.g.*, Letter from Richard Krock, Vinyl Institute, to Andrea Siefers, EPA, *Clarification on Certain Provisions in the National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production* (Apr. 5, 2013), Docket Document No. EPA-HQ-OAR-2002-0037-0560; this document is enclosed with

remain outstanding. Moreover, the PVC MACT rule differs in significant ways from historical and more recent MACT rules, which makes EPA guidance on those rules inapplicable. In the absence of a clear rule or explicit guidance on the PVC MACT from EPA, area sources will continue to expend significant effort to develop and implement a compliance program for the PVC MACT, in both the first year of compliance and beyond.

In addition, a reconsidered rule with new limits for area sources is certain given that the area source non-vinyl chloride total organic hazardous air pollutant (non-VC TOHAP) limit for process wastewater was withdrawn earlier this year by EPA as part of a settlement agreement.[8] Given that a reconsidered PVC MACT rule will be proposed in October 2015 and finalized in 2016, employees will need additional hours to become familiar with the changed requirements in the near future. Therefore, an estimate of 40 hours per employee, two employees per shift, and four shifts per existing source (for a total of 320 hours per facility) is an appropriate number of hours for EPA to estimate for at least the first several years of compliance.

II. Individual Estimates Should be Adjusted to Match the VI's Previous Comments

We appreciate the Agency's efforts to incorporate the burden estimates from the VI's previous comments into the ICR renewal. We do note, however, that EPA appears to have missed several key points in Attachment A of the VI's comments:

1. For process vent initial performance testing (Burden Item 3.B.1.a), both stack testing and continuous parameter monitoring system (CPMS) testing will be performed. Thus, the number of hours per facility should be 137.1 hours rather than 120 hours.

2. For process vent periodic testing, EPA did not include the time required for pH calibration (1.83 devices/facility * 0.5 hours * 3 calibrations/day * 350 days/year) and other calibration activities (16.5 hours/facility per year). Based on EPA's acceptance of the VI estimate of 107,800 hours industry-wide for the process vent CPMS, then the total hours per facility for Burden Item 3.B.2.a should be 6,968 hours when the pH and other calibration activities are included.

3. For both initial and periodic testing for stripped resin (Burden Items 3.B.1.b and 3.B.2.b), EPA included only the time required to perform testing for VC (36 hours per occurrence; daily testing 350 days per year). EPA did not include the time required to perform testing for non-VC TOHAP (3 samples/occurrence * 4 hours/sample; monthly testing). Thus, the number of hours per facility for initial testing should be 48 hours instead of 36 hours

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these comments for reference. *See also Petition of the Vinyl Institute for Reconsideration and Request to Stay the Rule Pending Reconsideration (June 18, 2012)*, Docket Document No. EPA-HQ-OAR-2002-0037-0569.

[8] *National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources Wastewater Limit Withdrawal*, 80 Fed. Reg. 5,938 (Feb. 4, 2015).

and the number of hours per facility per year for periodic testing should be 12,744 hours instead of 12,600 hours.[9]

4. For equipment leaks, EPA used the VI's estimate of 850 hours per facility as the burden for initial compliance, although EPA did not include the eight additional hours per month the VI indicated for reviews of monthly inspections, writing monthly summary reports, and recordkeeping for semi-annual compliance reports. This should be corrected. For ongoing compliance, EPA estimated 43 hours per month for a total of 510 hours per facility per year, stating that only 5% of the initial monitoring time will be required for ongoing monthly leak monitoring. However, the VI maintains that 850 hours per facility per month, plus the eight additional hours EPA did not include for initial compliance, are necessary for accurately representing ongoing compliance. Under the PVC MACT the amount of time needed to monitor accurately is not decreased in subsequent years, nor can an operator's cumulative experience significantly reduce the amount of time needed to accurately monitor the parts subject to these requirements and walk the subject areas of the facility. At most, monthly monitoring for valves can be reduced to quarterly monitoring after demonstrating that the valve leak rate in a unit is less than two percent.[10] EPA should revise this estimate or explain how a 95% reduction in equipment leak monitoring hours can be accomplished.

5. For stripped resin, process wastewater, and uncontrolled wastewater (both initial and periodic testing), the VI's comments stated that analysis for HAPs that are not included in Table 10 of the PVC MACT for latex facilities may be as much as $1,500. EPA should account for testing costs for these additional site-specific analytes in the table on page 10 in the Supporting Statement.

6. For heat exchangers, the VI's previous comments estimated that each source would have one heat exchange system that must be sampled monthly. Since that time, the VI has learned that one area source has eight heat exchangers, rather than one. EPA should revise its estimates to account for the additional samples that will be needed for these heat exchangers.

EPA should update the hours and costs in Table 1 to address these issues, in addition to accounting for the initial and ongoing compliance activities at existing sources detailed in Section I of these comments.

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[9] We also note that there appears to be an error in footnote "a" for Table 1, which states that "Per VI, it is assumed that performance testing for process vents will take 4 hours per sample for 9 samples per facility, initially and daily (350 days per year)." This footnote should refer to stripped resin rather than process vents.

[10] 40 C.F.R. § 63.1025(b)(3)(ii).

We thank the Agency for its consideration of these comments, as well as its consideration and incorporation of the comments previously provided by the VI. Should the Agency have any questions or require further information, please do not hesitate to contact me.

Respectfully submitted,

Richard Krock
Technical Director
The Vinyl Institute