

August 24, 2005

Mr. Stephen L. Johnson  
Administrator, U.S. Environmental Protection Agency  
1101A EPA Headquarters  
Ariel Rios Building  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460

Dear Mr. Johnson:

We, the undersigned, support the efforts of Mossville Environmental Action Now and the Sierra Club to hold EPA accountable in setting standards for polyvinyl chloride (“PVC”) facility air emissions. As you know, their efforts resulted in a federal appellate court vacating EPA’s woefully inadequate standards for PVC facility emissions.<sup>1</sup> Now that EPA must write new air emission regulations for PVC plants, we want to make certain that you hear our concerns and that the protective standards required by the Clean Air Act are set. We, therefore, request a prompt meeting with you regarding your plans for a rule to replace the recently vacated standards. We also request that EPA hold meetings in each community where a PVC plant is located to ensure meaningful public participation in EPA’s development of new emission standards for PVC plants.

Our request for a meeting with you is to discuss both EPA’s replacement of the vacated standards and the critical need for EPA to assess the impacts of PVC plant emissions on human health and the environment. The Clean Air Act requires EPA to conduct risk-based rulemaking for PVC plants to ensure that its emission standards provide “an ample margin of safety to protect public health.”<sup>2</sup> Had EPA set lawful emission standards for PVC plants by November 2000, as the Clean Air Act required it to do, these risk-based standards would have been completed by November 2008. The numerous documented case studies and reports demonstrating the hazardous environmental and health impacts of PVC plant emissions warrant EPA to begin developing an appropriately protective risk-based standard for PVC facilities as soon as possible.

As you are no doubt well aware, PVC plants are extremely hazardous to the residents of nearby communities. A majority of these plants are located in low-income, people-of-color neighborhoods. EPA must address this racially disproportionate pollution burden under Executive Order 12,898, *Federal Action to Address Environmental Justice in Minority Populations and Low-Income Populations*.<sup>3</sup> EPA has stated that emissions of vinyl chloride, which is only one of the many hazardous air pollutants that PVC plants emit, “cause or contribute to air pollution that may reasonably be anticipated to result in an increase in mortality or increase in serious irreversible, or incapacitating reversible illness.”<sup>4</sup> In its urban air toxics

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<sup>1</sup> *Mossville Environmental Action Now v. EPA*, 370 F.3d 1232 (D.C. Cir. 2004).

<sup>2</sup> 42 U.S.C. § 7412(f).

<sup>3</sup> 59 Fed. Reg. 7629 (Feb. 16, 1994).

<sup>4</sup> 63 Fed. Reg. 23785/2 (April 30, 1998).

strategy, the agency also identified vinyl chloride as one of the thirty-three hazardous air pollutants causing the greatest threat to public health in urban areas. In addition, EPA has indicated that PVC plants emit dioxins, chromium and lead, as well as vinyl acetate, vinylidene chloride, methanol, chlorine, hydrogen chloride, ethylene dichloride, chloroethane, and chloromethane — all of which can cause serious adverse health effects.

We know that the Clean Air Act required EPA to update its 1970s-era emission standards for PVC plants by November 15, 2000.<sup>5</sup> To bring these standards into compliance with the Act, the agency had to ensure that its standards required the maximum achievable degree of reduction for each of the hazardous air pollutants that PVC plants emit. In addition to vinyl chloride, these include dioxins, chromium and lead, as well as vinyl acetate, vinylidene chloride, methanol, chlorine, hydrogen chloride, ethylene dichloride, chloroethane, and chloromethane. Regrettably, EPA did not take any action on PVC plants until long after the November 15, 2000 deadline expired. Then, in 2002, the agency chose to leave its 1970s-era standards unchanged.<sup>6</sup> EPA knowingly ignored the plight of communities already subjected to years of accumulated exposure to toxics and burdened them with continued vinyl chloride emission levels that can reasonably be anticipated to kill people or make them extremely sick. Further, EPA did nothing whatsoever to reduce emissions of any of the other toxic pollutants that PVC plants emit.

Before issuing its decision to leave the inadequate 1970's-era emission standards unchanged, EPA met repeatedly with vinyl industry representatives. EPA held telephone conferences with representatives of the Vinyl Institute on January 14, 1999, and met in person with representatives of the Vinyl Institute on March 4, 1999, on March 21, 2000, and again on November 7, 2001.

But EPA did not meet once with representatives of the communities affected by PVC plant emissions.

EPA's decision to leave our communities unprotected from toxic PVC plant emissions — pollution that by the agency's own calculations is likely to cause death and serious illness — was unconscionable. We believe that this decision resulted directly from EPA's poor judgment in embracing industry while making no attempt to communicate with the communities it was created to serve and protect.

Fortunately, EPA's unlawful rule was thrown out by a court, and the agency must now rewrite it. As a start, EPA must re-propose its emission standards for vinyl chloride. Likewise, EPA must either propose new standards for all the other hazardous air pollutants that PVC plants emit or must demonstrate that vinyl chloride is a valid surrogate for each and every one of these other pollutants. In addition, EPA must re-propose requirements relating to PVC plants' operating practices, compliance, and reporting obligations. To establish lawful standards, EPA will need to gather information about PVC plants' actual emissions and all the control measures, practices, and other factors that affect these emissions.

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<sup>5</sup> 42 U.S.C. § 7412(q)(1).

<sup>6</sup> 67 Fed. Reg. 45886 (July 10, 2002).

On behalf of the many people who are affected by the toxic emissions of PVC plants, we want a chance to discuss with you EPA's efforts to rewrite its rule for PVC plants' toxic emissions. We know that the agency makes many important decisions before it even issues a proposed rule, and we would like an opportunity to weigh in on these decisions. We hope that EPA will avoid its previous error of consulting only with industry and not with affected communities. Accordingly, we request a prompt meeting with you, Mr. Johnson, to discuss EPA's plans for replacing the vacated standards and its plans for issuing risk-based standards that will finally provide an ample margin of safety to protect public health in our communities. Finally, we also request that EPA convene meetings in communities affected by PVC plant emissions that are scheduled early enough so that the residents' concerns can be heard before EPA issues a new proposed rule.

Sincerely,

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