



February 6, 2023

Barry N. Breen,
Acting Assistant Administrator
Office of Land and Emergency Management
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Mail Code: 5301P
Washington, DC 20460

**Re: Response to Petition to Classify Discarded Polyvinyl Chloride as RCRA Hazardous Waste;
88 Fed. Reg. 2,089 (January 12, 2023)**

Dear Assistant Administrator Breen:

On behalf of the National Roofing Contractors Association (NRCA) and its members, we appreciate the opportunity to comment on EPA's tentative denial of the rulemaking petition filed by the Center for Biological Diversity (CBD) requesting that discarded polyvinyl chloride (PVC or vinyl) be listed as a hazardous waste under the Resource Conservation and Recovery Act (RCRA).

Established in 1886, NRCA is one of the nation's oldest trade associations and the voice of roofing professionals worldwide. Our nearly 4,000 member companies represent all segments of the industry, including contractors, manufacturers, distributors, consultants, and other employers in all 50 states and internationally. NRCA members are typically small, privately held companies with the average member employing 45 people and attaining sales of \$4.5 million per year. The U.S. roofing industry is an essential \$100 billion sector with nearly one million employees that provides critical materials and services to ensure home and business safety.

PVC is a very popular and effective material for many roofing systems. Making its use and disposal more difficult could increase prices on consumers, reduce options and competition in the marketplace and possibly delay critical construction or repair work.

Specifically, for the reasons set out below, the denial should be finalized and made permanent.

I. NRCA Agrees that the Petition is Unwarranted

We agree with EPA that CBD failed to provide the necessary evidence that discarded PVC products should be regulated under RCRA.

We support the comments filed by the Vinyl Institute demonstrating that CBD has failed to show that discarded PVC products meet the RCRA listing requirements for hazardous waste.

In short, CBD has failed to directly address or demonstrate that discarded PVC products pose a substantial hazard to human health or the environment or that discarded PVC products are being improperly managed in the United States.

EPA's 2020 report on solid waste management does not support the Petition's allegation of improper management, but rather the opposite.¹ Further, the information in the petition has little connection to discarded PVC products.

II. NRCA Agrees that the Petition is Unworkable

In its Federal Register notice, the agency recounts the resources it would need to expend to list PVC as a hazardous waste, why this is unwarranted and how it would preclude the Agency from pursuing more pressing rulemakings, implementation, and reviews with respect to currently identified hazards under RCRA.²

While we defer to EPA on the Agency's assessment of its resources, we agree that granting the CBD's request would create massive disruption and costs without corresponding benefits and would not be a wise use of agency resources given more pressing regulatory priorities.

Moreover, CBD is effectively asking EPA to reject or ignore the regulatory program it has consistently applied since RCRA's enactment. At its core, CBD is asking that discarded PVC products be listed as hazardous waste, even if the discarded products are not deemed hazardous under RCRA's hazardous constituents rules, and even if the products do not contain the chemicals of concern cited in the Petition. In other words, CBD asks EPA to announce that the mere presence or possible presence of a substance of concern is sufficient to label all PVC as hazardous waste. Such an approach is inconsistent with the RCRA constituents policy, which has served the public interest well.

Beyond the policy considerations, the CBD's request is unworkable from a practical and logistical standpoint.

PVC is one of the most widely used plastics. PVC membranes can be welded throughout their lifetime, and they remain thermoplastic. This allows the material to be used in new equipment, solar panels, and routine maintenance. PVC trim from manufacturing can also be entirely recyclable. Post-consumer membranes are being returned and made into new membranes

¹ Advancing Sustainable Materials Management: 2018 Fact Sheet Assessing Trends in Materials Generation and Management in the United States, published in December 2020, reveals improved solid waste management in the United States. <https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/advancing-sustainable-materials-management>.

² 88 Fed. Reg. 2,091.

every day. PVC is a great roofing material option due to its eco-friendliness and sustainability, reflectivity and durability and strength. Other benefits to using PVC roofing materials are that it improves a building's energy efficiency, helps in the conservation of resources, contributes to better outdoor air quality and improved wind, fire, and chemical resistance.

III. Granting the Petition Would Undermine Current Recycling and Sustainability Efforts

The legislative and regulatory framework for chemical control and waste management have significantly evolved during the eight years since the Petition was initially filed in 2014. EPA is already undertaking comprehensive reviews of the hazardous chemicals discussed in the Petition under the 2016 amendments to the Toxic Substances Control Act (TSCA).

As EPA notes, in 2020, Congress has directed how marine waste should be addressed with the enactment of the Save Our Seas 2.0 Act.³

Granting the petition would regulate as hazardous a material that has been demonstrated safe over decades would cause significant disruptions to our industry and the U.S. economy.

For all these reasons, EPA should deny the 2014 CBD Petition to regulate discarded polyvinyl chloride as hazardous waste. If you have questions or need more information, please contact Deborah Mazol, NRCA's director of federal affairs, at dmazol@nrca.net.

Sincerely,



McKay Daniels
Chief Executive Officer

³ The Frank R. Lautenberg Chemical Safety for the 21st Century Act, Pub.L.114-182 2018 (2016), significantly amended TSCA and required EPA to review all existing chemicals; Save Our Seas 2.0 Act, Pub. L. 116-224 (Dec. 2020). Further, EPA has issued more stringent regulation of PVC through the PVC MACT. *See*, Polyvinyl Chloride and Copolymers Production: National Emission Standards for Hazardous Air Pollutants (NESHAP) - 40 CFR 63 Subparts J & HHHHHHH and 40 CFR 63, Subpart DDDDDDD, which include lower limits on residual vinyl chloride monomer. The PVC MACT is under reconsideration by the agency 85 Fed. Reg. 71490 (Nov. 9, 2020).