

Carol Browner  
Environmental Protection Agency  
401 M Street SW  
Washington, DC 20460

July 23, 1997

Ref: A public petition under the 1990 Clean Air Act requesting revocation of the Title V, Part 70 permit issued to Shintech and It's Affiliates, Inc., by Louisiana's Department of Environmental Quality.

Dear Ms. Browner,

This letter is submitted as a public petition under the 1990 Clean Air Act Amendments (CAA) and the Louisiana Administrative Code 33:III Chapter 5 (LAC 33:III.5). LAC 33:III.5 is the basis for which the EPA delegated Title V permitting authority to the state of Louisiana. This public petition is in reference to the Title V, Part 70 permit issued to Shintech and It's Affiliates, Inc., on May 28, 1997.

This permit was substantially changed from the proposed permit submitted to the EPA on February 20, 1997. These changes to the proposed permit were the result of consideration of public comments submitted during the required public comment period. In these circumstances LAC 33:III.5 Section 533 is quite clear. Section 533.B.3 requires that "The permitting authority shall promptly provide to EPA notice of any intended changes to a proposed permit resulting from consideration of public comment". Section 533.C.1 then states, in reference to Section 533.B.3, that "No permit pertaining to a major Part 70 source ... shall be issued if the administrator objects to its issuance within 45 days of receipt of the notice and information provided pursuant to Subsection B.2 and 3 of this Section". It should be noted that this reference to Subsection B.3 only has meaning when it refers to a second, or subsequent proposed permit received by the EPA that has been changed as a result of the consideration of public comments, and can't refer to an initial proposed permit that hasn't yet been changed.

To summarize, Section 533 requires that changes to a proposed permit that results from consideration of public comments must be sent to the EPA. The final permit can't be issued within 45 days of the EPA's receipt of this information. These 45 days are what are referred to in Section 533.C.2 as the "EPA's 45-day review period". Section 533.E.1 then states that a 60 day public petition period follows the EPA's 45-day review period.

These requirements of LAC 33:III Chapter 5, Section 533 were not followed in the permitting of Shintech and It's Affiliates, Inc. Instead, Louisiana's Department of Environmental Quality (DEQ) made substantial changes to the proposed permit as the result of consideration of public comments, and then issued a final Part 70 permit to Shintech without first sending these changes to the EPA as required in Section 533.B.3. This handling of Shintech's Part 70 permit was incorrect. This situation must be rectified.

The correct way to handle the situation was for the DEQ to send a corrected proposed permit to the EPA for review on May 28 instead of issuing a final Part 70 permit. After 45 days a public petition period begins. Under Section 533 of LAC

33:III.5 we should be in this public petition period right now, and it is under Section 533 of LAC 33:III.5 that we submit this public petition.

We are asking that the EPA revoke the Title V, Part 70 permit issued to Shintech and Its Affiliates, Inc., by Louisiana's Department of Environmental Quality on grounds that the permit was not issued in accordance with LAC 33:III.5. Reopening the permit is not acceptable, as the permit was not issued in accordance with LAC 33:III.5 to begin with.

We want Shintech's permit revoked and the DEQ to send the proposed changes to the EPA for review as required in Subsection C.1. Another EPA 45 day review period will ensue, followed by another 60 day public petition period.

We also include in this public petition a request that the administrator recognize that Section 505(a)(1)(B) of the Clean Air Act also requires that changes to a proposed permit must be submitted to the EPA for review, where Section 505(a)(1)(B) states, "(1) Each permitting authority- (B) shall provide to the Administrator a copy of each permit proposed to be issued and issued as a final permit."

We consider EPA review and the subsequent public comment period to be a cornerstone of the Title V permitting process. It is this public review and airing of each proposed permit that offers such bright hope for the citizen's of Louisiana. It is imperative that the Title V and Part 70 permitting be opened up for public review and critique in accordance with state and federal regulations. Without adequate EPA oversight, this bright hope offered by the CAA will dim.

We also ask that the administrator consider the consequences of allowing the DEQ to issue a final permit that is not open to EPA review or a public petition period. In this case the DEQ can issue an adequate proposed permit for which the EPA has no objections. The DEQ could then make drastic changes to the permit and issue it as a final permit, thus effectively bypassing EPA review and the public petition period. The 1990 Clean Air Act Amendments did not intend for this to be a possibility.

We strongly urge you to require the DEQ to adhere to LAC 33:III.5 and to the Clean Air Act. We further ask that you revoke Shintech's permit and require that the permitting procedures follow those stated in LAC 33:III.5. Finally, we ask you to defend the rights of the citizens of the United States of America and require that each permit proposed to be issued as a final permit be held to EPA review and the subsequent public petition process as required in the CAA Section 505(a)(1)(B).

Sincerely,

Marylee Orr  
Executive Director

cc: Al Gore, Vice President of the United States