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June 14, 1983

To R.T. Kelly

To: SPI Vinyl Institute
SPI Manufacturing Practices Committee

Re: Louisiana Emission Standards for Hazardous
Air Pollutants

Ladies and Gentlemen:

The Air Quality Division of Louisiana's Office of Environmental Affairs has prepared a written response to comments filed by the Vinyl Institute in April and May, 1983, on the proposed Louisiana Emission Standards for Hazardous Air Pollutants (LESHAP). A copy of the response is enclosed.

The regulations are the basis for Louisiana's hazardous air pollutant program previously administered by the Environmental Protection Agency (EPA). In issuing regulations, Louisiana was required to follow existing EPA regulations. While a state need not follow EPA's precise language, regional EPA personnel were requiring rigid word-for-word adherence in most instances. The flexibility of the state administrators was also limited by several Louisiana state law requirements.

Our comments and discussions with the Louisiana staff resulted in a number of improvements to the proposals although not all of our suggestions were adopted. As originally drafted, the proposed regulations spoke of facilities operating under an existing permit. Since vinyl chloride monomer (VCM) and polyvinyl chloride (PVC) facilities operate under the EPA regulation without a specific EPA permit, the VCM/PVC industry was in an uncertain position. Accordingly, Louisiana amended its proposals to cover facilities operating under a regulation without a separate permit system.

Another major concern was that Louisiana would require existing facilities to obtain operating permits. Although the staff did not make the wording changes to the regulations we had sought, their response provides an interpretation of the

✓ PC Bruce J. Brockman

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regulations which assures continued operation of existing facilities without going through a permit proceeding.

Louisiana's proposed reporting requirements also raised several problems. Due to the wording of Section 76.18, it appeared that a discharge report would constitute an admission of a violation of the standard. Louisiana's response makes it clear that no such admission will be implied. Other suggestions adopted by Louisiana include the deletion of a requirement that existing sources file an initial report and that monitored emissions be reported under Section 76.18. Similarly, Louisiana agreed that minor excursions for reactor opening losses and residual vinyl chloride monomer in PVC need not be reported within seven working days under Section 76.18, but may be reported in the quarterly report. We also obtained a clarification that written reports of excess emissions are due within seven working days.

Several changes to the emergency discharge section of the standard were offered by the Vinyl Institute. Ultimately, Louisiana adopted the language of the current VCM standard. The state's response does note, however, that the presumptions contained in the definition of emergency emission apply to both relief valve and manual vent valve discharges. This should be helpful and could lead to further efforts to define certain types of discharges as emergencies.

Finally, we commented on the handling of confidential information. While the regulations retain the proposed confidentiality provisions, Louisiana indicates that it is presently using a more stringent control system and plans to publish a statement documenting the procedures that will be used by the Air Quality Division. The Division staff has promised us an opportunity to comment on control procedures prior to publication in final form.

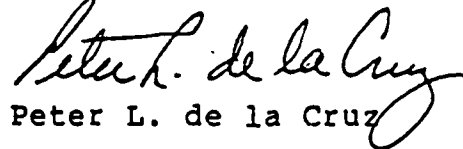
The efforts of the Manufacturing Practices Committee resulted in substantial improvements over the proposed Louisiana regulations. In addition, participation in this rulemaking provided an opportunity to establish a working relationship and educate the Air Quality Division staff on the particular needs of the VCM/PVC industry. The members who participated in this activity are to be commended for their efforts.

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If you have any comments or questions, please feel free
to contact me.

Cordially yours,


Peter L. de la Cruz

Enclosure

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cc Sam
JRL
JHH ✓

FRANK P. SIMONEAUX
SECRETARY

B. JIM PORTER
ASSISTANT SECRETARY

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF ENVIRONMENTAL AFFAIRS
AIR QUALITY DIVISION

GUSTAVE VON BODUNGEN
PROGRAM ADMINISTRATOR

May 26, 1983

Mr. G. R. Munger, President
Society of the Plastics Industry, Inc.
355 Lexington Avenue
New York, New York 10017

Dear Mr. Munger:

Thank you for your letters of April 6 and May 17, 1983 in which you offered comments on the proposed Louisiana Emission Standards for Hazardous Air Pollutants (LESHAP). We have reviewed the comments and found them very useful in helping us make revisions to the proposals.

As you are probably aware, we have incorporated several of the ideas you presented into the revised version which was sent to you on April 29, 1983.

We have prepared a written response to your comments and enclosed it with this letter. The purpose of the response is to inform you of the reasoning behind our assessment of your comments as reflected in the revised proposals. I hope it will be helpful in explaining our views to you.

Again, thank you for the time and effort you and your staff have spent in reviewing the proposed regulations and preparing the comments. It is clear that your work has helped us to improve the proposals in many key areas.

Sincerely,

A handwritten signature in cursive script that reads 'Gustave Von Bodungen'.

Gustave Von Bodungen
Program Administrator

GVB/CJG/bs

Enclosure

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The responses given below are organized according to the section in the proposed regulation to which the comments are directed. Because virtually all comments contained in the May 17, 1983 letter are contained in the April 6, 1983 letter the responses below address the April comments.

Section 76.2

SPI suggests the inclusion of the term "regulation" in the definition of "emergency emission." This is because emissions from EDC, VCM, and PVC facilities are limited directly by regulation.

We agree with the idea and have incorporated the term into the revised text.

SPI suggests deletion of the phrase "outside the scope of his employment" from the example of circumstances which define an emergency emission. SPI states that "an unauthorized act or omission by an employee" should be considered outside the scope of his employment.

We disagree with SPI's interpretation of the term "outside the scope of his employment." We feel the "scope" of an employee's function includes all activities he might undertake at the operating unit to which he is assigned. In effect, deleting the phrase would give a blanket determination that all discharges caused by operator error are "emergency emissions" and are not preventable.

SPI suggests inclusion of the term "malfunction" into the list of events presumed to constitute an "emergency emission."

The term malfunction, as defined in proposed Section 4.125 includes the phrase "unavoidable." Inclusion of malfunction into the list of events presumed to constitute an "emergency emission" would still require a determination of whether the failure was "unavoidable" and would not significantly improve the clarity of the definition. Therefore we have not incorporated the suggested change into the revisions.

SPI suggests that wording should be added to the definition of "emergency emission" which allows the Assistant Secretary to determine that a discharge was an "emergency emission" based on "other factors."

It is our opinion that addition of such wording would not be consistent with the legislative mandate to define "objective criteria" for identifying an "emergency emission." The legislative requirement is contained in La. R.S. 30:1089(P)

SPI suggests specific wording should be added to the definition of "emergency emission" to make the presumptions contained therein applicable to manual vent valve discharges and relief valve discharges.

We feel the presumptions contained in the definition of "emergency emission" do apply to manual vent valve and relief valve discharges as currently written.

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Section 76.7

SPI suggests moving the sentence which addresses permitting existing sources to Section 76.8.

We have decided not to alter the Assistant Secretary's authority to require existing sources to apply for a permit. This is done because we anticipate there may be some existing commercial or industrial operations which have not complied with the regulations. We do not intend to require permit applications for sources which have been operating in compliance with applicable regulations. Since some existing sources may be required to file a permit application we have decided to leave the sentence concerning existing sources in Section 76.7.

SPI suggests use of the word "facility" in place of the word "applicant" in Section 76.7(b).

We have kept the word "applicant" in the text in response to requests from the Environmental Control Commission that the compliance history of an "applicant" be included in permit requests. We have, however, modified the wording to make the requirements less burdensome on applicants for permit.

Section 76.8

SPI suggests deletion of the wording which allows the Assistant Secretary to require an application for permit from an existing source. SPI claims it contravenes La. R.S. 30:1071. SPI suggests inclusion of wording to clearly state that sources operating in compliance with NESHAP standards can continue to operate without further authorization.

We have incorporated wording to clearly state that sources which have been operating in compliance with applicable NESHAP standards can continue to operate without further authorization. We do not believe the wording of Section 76.8 contravenes the Environmental Affairs Act. We interpret the wording in La. R.S. 30:1071 to mean any agency of the State of Louisiana.

By implementing these proposed regulations the State of Louisiana is, in effect, granting a permit to operate to the existing sources which have been in compliance. The information required by Sections 76.7(b)(4), 76.7(b)(5) and 76.11 gives the Assistant Secretary enough data to evaluate the compliance history of an applicant and whether an existing source should apply for a permit. We anticipate that existing sources who have been operating in compliance with applicable regulations will not be required to apply for a permit.

Section 76.13

SPI suggests using the phrase "compliance with allowable emissions" instead of the term "verification of allowable emissions."

We agree and have incorporated the change into the revised proposals.

Section 76.15

SPI suggests the wording be changed to officially recognize alternative or equivalent methods which have been previously approved by EPA. SPI also suggests that the Assistant Secretary give prior notice to the source before withdrawing approval of an equivalent or alternative method.

We have incorporated wording to require prior notice before approval of an

equivalent or alternative method is withdrawn. We do not feel blanket acceptance of equivalent or alternative methods (or other equivalencies) is appropriate because doing so may constitute regulation by reference which is prohibited by the Louisiana Constitution.

Section 76.18

SPI is concerned that reporting of emissions under Section 76.18 will be interpreted as an acknowledgement of a discharge in violation of the vinyl standard. SPI also suggests including the word "regulation" in the first sentence to clarify the standards upon which a judgment of whether a discharge is in excess of an allowable limit is made. SPI suggests using the term "working days" when describing the time limit for receiving reports. SPI suggests restructuring the Section into shorter sentences to help clarify its meaning. Finally SPI suggests DNR should issue an interpretive letter stating that minor excursions of vinyl regulations should not be reported under Section 76.18.

We understand SPI's concern about misinterpretation of discharges which are reported under Section 76.18. We feel the reporting requirements of Section 76.18 are clear and that adding the suggested language would lead to doubts about the requirements to report line or vessel ruptures.

We have added the word "regulation" to the body of the text. We have also added the word "working" to the text. We have subdivided Section 76.18 to facilitate interpretation. Finally we feel the wording in Sections 76.18(c) and 77.9(a) make it clear that we expect only control equipment by-passes of longer than one hour and line or vessel ruptures to be reported in addition to the current reporting requirements.

Section 77.2

SPI suggests defining the term "measure" to mean "an adequate combination of design, procedure, and equipment to limit discharges which is approved by the Assistant Secretary."

We feel the suggested definition is not appropriate for two reasons: 1) the word "adequate" presents the same problems of interpretation that the word "measures" presents; and, 2) the task of approving the measures by the Assistant Secretary is burdensome and would lead to continual confrontation between him and facilities seeking to have certain "measures" approved.

SPI states that the definition of "emergency emission" in Section 76.2 does not encompass "emergency discharges" under Sections 77.5(a)(3) and 77.6(a). SPI suggests a definition for "emergency discharge."

We disagree that the definition of "emergency emission" does not encompass discharges from safety relief valves and manual vent valves which are non-preventable. The presumptions of the definition of "emergency emission" will apply when determining whether a safety relief valve or manual vent valve discharge is an "emergency emission."

Section 77.6(b)

SPI suggests wording which removes routine leaks detected by leak detection systems from the reporting requirements of Section 76.18.

We agree that reporting of routine leaks is not appropriate under Section 76.18 and have incorporated wording to accomplish the suggested change.

Section 77.8

SPI suggests that sources for which continuous emission monitors are in place be exempt from the requirements for annual emission testing.

We agree that continuous emission monitors are a good indication of compliance with emission limits. However, La. R.S. 30:1089(E) requires annual emission testing of facilities that emit hazardous air pollutants. We feel that continuous emission monitors may be used for this purpose if they have been determined to be an equivalent or alternative method by the Assistant Secretary under Section 76.15. We are currently preparing guidelines for use by facilities wh wish to apply for such an equivalent or alternative method determination.

Section 77.9

SPI suggests wording which removes the requirement for monitored emissions to be reported under Section 76.18.

We agree and have incorporated wording that accomplishes the suggested change with one exception. If an emission limit is exceeded due to by-passing control equipment for more than one hour then the discharge shall be reported according to Section 76.18.

Section 77.10

SPI suggests the requirement for an initial report for existing sources be deleted.

We agree and have incorporated the appropriate wording.

Section 77.11

SPI suggests adding a sentence indicating that reactor opening losses and levels of residual vinyl chloride in polyvinyl chloride which are in excess of emission limits need not be reported under Section 76.18.

We agree that minor excursions of emission limits for reactor opening losses and residual vinyl chloride in polyvinyl chloride should not be reported under Section 76.18. We feel that the existing wording is adequate to allow such exceedances to be reported only in the quarterly report.

Confidential Information

SPI suggests extensive changes in the procedures which govern the acquisition, handling, and use of confidential information.

The procedures outlined under Section 6.1.7 represent minimum standards for the protection of confidential information for the Office of Environmental Affairs. The Air Quality Division currently maintains a system for handling such data which is much more stringent than the Office of Environmental Affairs procedures. It is our intention to publish a statement which documents the procedures employed by the Air Quality Division to protect confidential information. This statement is currently under development and includes many of the concepts suggested by SPI. We will solicit further input from SPI and industry in Louisiana on the development of the statement.