August 31, 1999

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

Ref: A public petition under the 1990 Clean Air Act regarding the proposed Shintech PVC plant in West Baton Rouge Parish, Louisiana.

Dear Ms Browner,

This public petition is submitted on behalf of AWARE (Alliance Against Waste and Action to Restore the Environment) and the Louisiana Environmental Action Network, and is submitted via facsimile and letter to the office of Carol Browner.

1. We ask that this permit be denied as it will inhibit reasonable further progress in the Baton Rouge ozone nonattainment area and, as such, is not in accordance with the Clean Air Act (CAA).

We contend that the requirements for reasonable further progress are included in, but not limited to, Section 172(c)(2). This section states that our nonattainment plan provision "shall require" reasonable further progress, as defined in Section 171. By definition, reasonable further progress requires incremental reductions in emissions "for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date." The Baton Rouge nonattainment area WILL NOT be in attainment by the applicable nonattainment date.

Since the early 90's, the ozone problems in the Baton Rouge nonattainment area have gotten much worse, with the last four years being especially bad. At the start of 1999 Baton Rouge had four of its eleven monitors in noncompliance and three more very close to noncompliance. Baton Rouge is assured of having several monitors in noncompliance by the November, 1999, attainment date.

This compares to 1994 when Baton Rouge had only two monitors out of compliance and the hope of achieving attainment by 1999. There have been several policy decisions that have pushed Baton Rouge farther away from attainment, and allowing the increased emissions from the proposed Shintech plant would do the same. The proposed emissions from this facility can only make the ozone problems worse, and can't possibly meet the requirements of Title I of the Clean Air Act (CAA).

In addition to the reasonable further progress provisions, section 172(c)(6), require adequate provisions in the nonattainment plan to provide for attainment by the attainment date, which is November 15, 1999. The Baton Rouge nonattainment area will not be in attainment by this date. Allowing more emissions at this time will only hurt our attempts to reach attainment and does not meet the requirements of Title I of the CAA.

Reasonable further progress (in this case) means reductions in emissions of VOCs for the purpose of ensuring attainment of the applicable national

ambient air quality standard by the applicable date. CAA §171. The Louisiana Department of Environmental Quality (LDEQ) has admitted in the 1998 Air Quality Annual Report that the Baton Rouge area “will fail to meet the ambient ozone standard by November 15, 1999.” (p. 26). Even though LDEQ calculated for new emissions in its reasonable further progress demonstration, it is obvious that additional new emission sources will hinder attainment. Yet LDEQ is proposing to grant a permit to Shintech for an entirely new source of emissions. EPA should have objected to Shintech’s permit in light of the area’s failure to meet ozone attainment.

Section 172(c)(1) also requires that the nonattainment plan provisions "shall provide for attainment of the national primary ambient air quality standards." Given the situation in the Baton Rouge nonattainment area this provision of the CAA is not being met.

Based on these problems we are requesting that the Shintech permit be denied as it will inhibit reasonable further progress, and/or inhibit attainment of the national ozone standard, and/or prohibit or impede the implementation of the CAA.

2. The most recent State Implementation Plan (SIP), dated January 2, 1997, fails to meet the requirements of section 182(c)(2)(A). The attainment demonstration plan submitted in the SIP clearly shows that the Baton Rouge nonattainment area plan provisions are inadequate and will not meet the requirement that the plan provisions "will provide for attainment of the ozone national ambient air quality standard by the applicable attainment date." Granting the Shintech permit will only make this situation worse, will further degrade the performance of the attainment demonstration and will further inhibit progress towards attainment.

We would like to point out that none of the attainment demonstrations meet the NAAQS for ozone, with two of three not even coming close. Instead, these attainment demonstrations show that the plan provisions for the Baton Rouge nonattainment area will most definitely NOT provide for attainment by the applicable date.

In the SIP the LDEQ chose to use the statistical approach in the EPA's guidance on the application of the UAM for demonstrating attainment of the ozone NAAQS. The SIP's attainment demonstration for the Baton Rouge nonattainment area failed five of the nine statistical benchmarks required in the EPA's guidance, including three failures of benchmark #2 and two failures of benchmark #3. The failure of a single benchmark is a demonstration of the failure of the SIP when the statistical approach is used. The failure of five of the nine benchmarks shows the extreme inadequacies of the SIP to achieve ozone attainment by the required attainment date and shows the failure of the required attainment demonstration. Granting the proposed Shintech permit will only have a negative impact on the attainment demonstration.

Based on the failed attainment demonstration and/or the associated failures of the SIP we are asking the that the Shintech permit be denied and that no new source permits be granted in the Baton Rouge nonattainment area until the SIP has been revised such that the associated attainment demonstration

meets the requirements of the CAA and the area comes into attainment for ozone.

Additionally, we ask that the SIP provision plans be declared invalid and inadequate under Title I of the CAA because it will not provide for attainment of the ozone national ambient air quality standard by the applicable attainment date. This is made all too clear by the attainment demonstration . We are requesting that the Administrator make a finding under section 110(k)(5) that the "applicable implementation plan for any area is substantially inadequate to attain or maintain the relevant national ambient air quality standard".

We are requesting that the sanctions associated with the finding of an inadequate attainment demonstration and/or inadequate plan provisions be the offset requirements of section 179(b)(1), and that these offset requirements pertain to all VOC increases associated with all new or modified sources.

In addition we request that the Administrator immediately classify the Baton Rouge nonattainment area as a severe ozone nonattainment area due to the failure of the attainment demonstration and the failure of the plan provisions of the state implementation plan.

3. Section 172(c)(5) requires that "permits for the construction and operation of new or modified major stationary sources anywhere in the nonattainment area," must be "in accordance with section 173."

We recognize that the Shintech application and the proposed permit declare Shintech as a minor source at this time. However, section 172(c)(5) also requires the permitting requirements of section 173 for the operation of a major source. Shintech's proposed PVC plant is a major source under the provisions for severe ozone nonattainment areas, and will therefore be a major source when and if it begins operation of its proposed facility. Since the Baton Rouge ozone nonattainment area will be a severe ozone nonattainment area at the time Shintech begins operation the requirements of section 173 will apply.

Additionally, when Shintech becomes a major source due to the change of the Baton Rouge ozone nonattainment area to severe from serious, Shintech will have to meet the prevention of significant deterioration requirements of Section C of the CAA and in LAC 33:III Chapter 51, as well as having to meet the reasonably available control technology (RACT) requirements of sections 172 and 182 of the CAA.

We request that the Administrator make a determination that the requirements of section 173 will apply when a facility begins operation as a major source.

Further, we request that the requirements of section 173, all prevention of significant deterioration, and the RACT requirements be applied to the Shintech permit as the application of these requirements will be much easier to implement prior to construction than at the time of the commencement of plant operation.

4. Some of the emissions calculations in the application, including the fugitive emissions and reactor opening losses, appear to be incorrect or too low. These calculations are reflected in the proposed permit emissions levels. Since the emissions rates in the Shintech application and proposed permit are precariously close to the current major source emissions criteria this issue takes on increased importance. The fugitive emissions rates and reactor opening losses appear to be understated and are substantially lower than emissions rates for similar facilities.

Among other problems, the reactor losses in this permit application are 20% of the reactor opening losses in the permit for a similar Shintech facility dated July, 1996. The fugitive emissions in the current Shintech application are the same as the fugitive emissions for the similar facility, permit application dated 1996, despite the fact that there are seven new emissions sources included in the new permit application. These emissions sources include three large boilers, two thermal oxidizers and a storage tank.

The problem with approving Shintech as a minor source permit is that it allows them to avoid the requirements of meeting the reasonably achievable control technology standards of section 172 and 182, avoid the prevention of significant deterioration requirements of Part C of the CAA and LAC 33:III Chapter 5, and avoid the requirements of the new source review provisions of section 173 and 182.

This only becomes a problem when the applicant is this close to being a major source. In this instance there are a variety of scenarios that could require Shintech to operate as a major source. At that time it would be difficult and costly to retrofit the major source requirements that were otherwise avoided by applying as a minor source. These scenarios include, but are not limited to, the Baton Rouge area being put in the severe ozone nonattainment category or Shintech failing their compliance testing requirements and thus having their permit changed such that they become a major source.

Given the problems with the reactor opening losses, the fugitive emissions calculations, the fact that Shintech will be built and begin operation in a severe ozone nonattainment area which will make Shintech a major source and the problems with retrofitting to meet major source requirements we request that Shintech be permitted as a major source at this time.

5. The proposed permit does not include the appropriate maximum achievable control technology (MACT) standards. These standards are stated in the CAA Section 112(d)(3) and LAC 33:III Section 5103. Shintech, under the provisions of section 112(g), performed a MACT analysis based on regional sources only. The MACT standards were developed to prohibit the use of regional standards and to implement control standards based on national standards. In this permit proper implementation of the MACT standards was not done.

For the strippers, the regional review done by Shintech found that the more stringent 25 ppmv annual average should be used instead of the proposed 27 ppmv quarterly average. Even based on a regional MACT analysis

Shintech has not chosen the control standard in accordance with state and federal law. A MACT standard for these emissions points based on a national standard was never determined.

The proposed reactor opening losses are substantially less than reactor losses from similar facilities. Neither the permit nor the application states what type of control technology and/or operating procedures will be used to obtain these substantially lower reactor losses. Without a thorough understanding of the control technology and/or operating procedures proposed no MACT determination can be made.

Shintech did not determine, nor does can it be determined that the permit imposes standards that are "the most stringent emissions level achieved in practice by the best controlled similar source in the same category or subcategory". This is required by state and federal law. The MACT determination was done using regional rather than national control technology standards. State and federal law can only be successfully implemented with MACT control standards based on national standards.

Due to the problems with developing and implementing MACT standards for the Shintech permit that meet the requirements of state and federal law we ask that this permit be denied.

6. We have been working with the Air Planning Section of Region 6 for several years. In that time we have found the section staff to be competent and know they are qualified to perform their duties. However, this experience has also shown that there is a serious problem with the management in this section. Specifically, in what can only be described as a management failure, this section continually fails to implement the applicable laws and regulations always coming down on the side of poorer air quality and on the side of the state.

Examples include the failure to act on the contingency plans for St. James Parish in the time required in the SIP, mishandling the Lafourche Parish SIP and approving the Baton Rouge attainment demonstration after it failed to meet the CAA or the EPA's guidance document on attainment demonstrations.

We are requesting that a new Section Chief for the Air Planning Section of Region 6 be appointed.

Sincerely,

Mary Lee Orr

Executive Director