State says it can’t change toxic air emissions rules

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Some of the state’s proposed rules on toxic air emissions cannot be changed to accommodate liberalized revisions suggested Tuesday by an industry representative, according to chief air quality official Gus Von Bodungen.

W.C. Holbrook, director of environmental affairs for B.F. Goodrich, suggested relaxing some of the state’s proposed new rules governing the emission of toxic substances such as vinyl chloride.

But Von Bodungen said a 1982 state law required regulations specifically aimed at evaluating a company’s history of air pollution violations and at annual testing for prohibited pollutants.

Holbrook had questioned the need for revealing earlier violations that had been resolved and the need for annual testing when continuous monitoring would be required under permit restrictions.

Act 686 of 1982 requires those provisions in the rules, Von Bodungen told Holbrook and other industry representatives at a public hearing Tuesday. Tuesday’s hearing was the third in a series designed to receive comments on the new rules. The first hearing was held Monday in Lake Charles and the third will be held (See AIR, Page 7-B)
Wednesday night in New Orleans.

There were no environmental spokesmen present Tuesday, but Von Bodungen said he had already received written comments from the American Lung Association of Louisiana on some of the rules' procedural requirements and on the restrictions governing asbestos.

Holbrook suggested Tuesday that 11 changes be made in the proposed toxic emissions rules, including deletion of a rule that would require companies currently operating under federal rules to submit a partial permit application to the state Environmental Control Commission so that the state could determine whether a full permit hearing would be required.

"The state does not have the right to retroactive review," Holbrook said.

The state has the authority to determine whether industries are complying with its permitting requirements because of the switch from federal monitoring to state authority to impose and enforce air pollution standards, Von Bodungen said.

The proposed rules under consideration Tuesday were mandated by the 1982 Legislature in anticipation of the U.S. Environmental Protection Agency's delegation of air pollution control and enforcement to the state this year.

Most of the state's proposed regulations track existing federal rules, but some are more stringent because the state law that mandated them is tougher, Von Bodungen said.

Von Bodungen and air quality official Greg Gasperecz did not react negatively to all of Holbrook's suggestions. Some, they said, would result in a clearer reading of the proposed rules.

"We aren't advocating a change in the law, but we are advocating a reasonable policy of interpreting the law," Gasperecz said. "Any regulatory agency has a discretionary latitude in meeting the intent and letter of the law. You're going to have to trust us for a little while."

Von Bodungen said after the hearing that he did not expect any substantive changes to result from the meetings.

"I think we'll see some clarifications and recognition of alternative (anti-pollution) procedures that have been developed since the federal regulations were written several years ago," the air quality chief said.

He said he expected industry to be able to absorb implementation of the new rules without too much difficulty or financial burden.

Any changes resulting from this week's meetings will be incorporated into the rules when they are presented to two legislative oversight committees next month. After the committees review them, the rules will be published in the state register and a formal 30-day comment period will be opened. That period should run from April 20 through May 20, and the ECC is expected to act on the final version of the rules at its May 26 meeting, Von Bodungen said.

J. Ross Vincent, president of the Ecology Center, has complained that the timetable for review and adoption of the rules did not allow groups such as his...