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Environmental Quality Board

July 28, 1997

File:	1835	1836
cc:	Bush	Harbison
	Tyrrell	Smith
	Sandusky	
	Wyatte	
	Bereschak	

Mr. Robert E. Nyce, Executive Director
Independent Regulatory Review Commission
14th Floor, Harristown #2
333 Market Street
Harrisburg, PA 17120

RE: Proposed Rulemakings: Gasoline Volatility Requirements (#7-319) and
Control of VOCs from Gasoline Dispensing Facilities (Stage II) (#7-320)

Dear Mr. Nyce:

Enclosed are copies of official verbatim transcripts for two public hearings the Environmental Quality Board recently held on the above rulemakings.

The written statement submitted to the Board at the hearing pertaining to #7-319 was previously forwarded to you. There were no written statements submitted for #7-320.

Sincerely,

A handwritten signature in black ink that appears to read "Sharon K. Freeman".

Sharon K. Freeman
Regulatory Coordinator

Enclosures

File: 1835 1836
cc: Bush Harbison
Tyrrell Smith

Sandusky

Wyatte

Bereschak

DEPARTMENT OF ENVIRONMENTAL PROTECTION

* * * * *

IN RE: EQB HEARING - PROPOSED GASOLINE

VOLATILITY REQUIREMENTS

ORIGINAL

* * * * *

LOCATION: Southwest Regional DEP Office

500 Waterfront Drive

Pittsburgh, PA

HEARING: Tuesday, June 3, 1997

10:00 - 10:10 a.m.

WITNESSES: Michael A. Vandenberg

* * * * *

REPORTER: AMY HIRSCH

* * * * *

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I N D E X

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OPENING STATEMENT

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by Mr. Charleton

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WITNESSES STATEMENT

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by Mr. Vandenberg

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CERTIFICATE

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(814) 536-8908

EXHIBIT PAGEPAGE

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1 P R O C E E D I N G S
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33 BILL CHARLETON:

4 Welcome to this Environmental
5 Quality Board public hearing on
6 gasoline volatility requirements
7 applicable to the seven-county
8 Pittsburgh-Beaver Valley Area. This
9 proposal was approved by the
10 Environmental Quality Board on March
11 18, 1997.

12 My name is Bill Charleton. I
13 am the Chief of the Engineering
14 Services for DEP's Southwest Regional
15 Office air program. I have been asked
16 by EQB Chairman Seif to chair this
17 hearing due to the unavailability of
18 any EQB members today.

19 Also with me today from the
20 Department of Environmental Protection
21 is Terry Black, Chief of the Regulatory
22 and Policy Development Section with the
23 Air Quality Program
24 in our Harrisburg Central office.

25 Notice of today's hearing was

1 printed in the Pennsylvania Bulletin on
2 May 3, 1997. In addition, a notice was
3 published in the Pittsburgh Post
4 Gazette on May 2.

5 This proposal, which was
6 recommended by the Southwestern
7 Pennsylvania Ozone Stakeholders Working
8 Group, will limit the volatility of
9 gasoline sold in the Pittsburgh-Beaver
10 Valley Area during the ozone season by
11 imposing a Reid Vapor Pressure limit on
12 all gasoline and gasoline blends
13 marketed or exchanged in the seven-
14 county area. The proposal also
15 provides for reformulated gasoline as
16 an alternate compliant fuel.

17 The five-month ozone season
18 runs from May 1st through September
19 30th of each year. The Stakeholder's
20 Group was formed by Governor Ridge in
21 March of 1996 to recommend strategies
22 for ozone attainment and maintenance of
23 the current health-based national
24 ambient air quality standards.

25 In order to give everyone an

1 equal opportunity to testify at this
2 hearing, I would like to note the
3 following ground rules:

4 I will first call upon the
5 witnesses who have preregistered to
6 testify at today's hearing as included
7 on today's schedule of witnesses.

8 After hearing from these witnesses, I
9 will provide any other interested
10 parties with the opportunity to testify
11 as time allows.

12 Oral testimony is limited to
13 ten minutes.

14 Organizations are requested to
15 designate one witness to present
16 testimony on its behalf.

17 Each witness must submit three
18 written copies of the testimony to aid
19 in transcribing the hearing. Please
20 hand me your copies prior to presenting
21 your testimony.

22 Please state your name and
23 address for the record, prior to
24 presenting your testimony.

25 We would also appreciate your

1 help in spelling names and terms that
2 may not be generally familiar so that
3 the transcript can be as accurate as
4 possible.

5 Interested persons may submit
6 written comments in addition to or in
7 place of oral testimony presented
8 today. All comments must be received
9 by the EQB by July 3rd, of 1997.

10 Comments should be addressed to the
11 Environmental Quality Board, Post
12 Office Box 8477, Harrisburg, PA 17105-
13 8477.

14 Anyone interested in a
15 transcript of this hearing may contact
16 the stenographer here today to arrange
17 to purchase a copy.

18 I would now like to call the
19 first witness, who is Michael
20 Vandenberg, with the American Refining
21 Group.

22 MICHAEL VANDENBERG:

23 My name is Michael Vandenberg.
24 I'm Vice-President of Refinery
25 Operations for American Refining Group.

1 Address of the company is 2010 William
2 Pitt Way, Pittsburgh 15238.

3 My plan is to just read this
4 statement as I've submitted it. I'd be
5 happy to answer questions if anyone has
6 any following that.

7 American Refining Group
8 appreciates the opportunity to comment
9 on the proposed controls on gasoline to
10 reduce emissions of VOC's. The
11 Department has requested comments
12 specifically on the dates which
13 volatility controls should be in effect
14 and enforced in the seven county area
15 in Southwest Pennsylvania.

16 American Refining Group
17 recommends revising the effective dates
18 from those proposed, for beginning and
19 ending the low vapor pressure
20 requirement. We believe these dates
21 should correspond to the Federal low
22 vapor pressure gasoline season during
23 the summer months. For petroleum fuels
24 distribution terminals these dates are
25 May 1 through September 15 and for

1 retail gasoline fueling stations June 1
2 through September 15.

3 By requiring retail outlets to
4 have low vapor pressure gasoline on May
5 1, we believe supply disruptions will occur and
6 prices will be higher during this earlier
7 period. The gasoline manufacturing and
8 distribution system is set up to make the
9 conversion on May 1 by virtue of the
10 Federal requirements. If Pennsylvania has a
11 peculiar or special requirement, the
12 gasoline will have to be specifically
13 manufactured and transported at an
14 earlier time like April 1st. This
15 special manufacturing and handling will
16 only occur at a special price.

17 Because there does not appear
18 to be an ozone problem during May or
19 after September 15th, this requirement
20 would yield no benefit.

21 The American Refining Group
22 agreed with and supported the change to
23 low vapor pressure, that is 7.8 RVP
24 instead of 9.0 RVP, as proposed by the
25 Ozone Stakeholders group during their

1 1996 negotiations. Their proposal was
2 based on following the Federal
3 requirements for effective dates of
4 vapor pressure control. We believe the
5 Department of Environmental Protection,
6 who participated in and supported the
7 Stakeholders Group should adhere to the
8 vapor pressure control period May 1
9 through September 15 for terminals and
10 June 1 through September 15 for retail
11 gas stations.

12 Thank you.

13 BILL CHARLETON:

14 Your only concern then with
15 the program is the start date.

16 MICHAEL VANDENBERG:

17 That's correct. Anything that
18 would deviate from the Federal program
19 is going to cause some disruptions in
20 supply. I don't mean to imply that
21 there won't be gasoline here for people
22 to buy. But what will happen is there
23 will be certain individuals and perhaps
24 our concern would be the independent
25 market would have a shortage of supply,

1 hence have higher priced material.

2 The proposal as I've
3 interpreted it, seems to imply that the
4 retail stations would have to have
5 gasoline, low vapor pressure gasoline,
6 May 1st. And if that is the case, it
7 takes what's nominally allowed in the
8 Federal program in just one month
9 changeable period. Terminals have to
10 have low vapor pressure gasoline May
11 1st and by virtue of the way this
12 distribution systems works, that
13 assures that the retail stations will
14 be converted by June 1st which is the
15 significant control point. So that if
16 you were to require retail stations to
17 have 7.8 RVP gasoline May 1, the
18 terminals would have to make that
19 conversion April 1. There's currently
20 not low vapor pressure gasoline in the
21 system as early as April 1st. For
22 terminals to accept the low vapor
23 gasoline.

24 BILL CHARLETON:

25 Thank you. Is there anyone

1 else who would wish to provide
2 testimony at this time?

3 After given the opportunity
4 for all of you to present testimony and
5 there being no more witnesses, this
6 hearing is adjourned.

7 * * * * *

8 HEARING CONCLUDED 10:10 A.M.

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5 **CERTIFICATION**

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I hereby certify that the foregoing is a true and correct
transcript of the notes taken by me at the hearing in this matter.

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10 DATE

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7/16/97 Amy Dusek
12 REPORTER

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• ERIE
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• HARRISBURG
• INDIANA

SARA ANN SARGENT
COURT REPORTING SERVICE
210 Main Street
Johnstown, PA 15901
(814) 536-8908

• GREENSBURG
• HOLLIDAYSBURG

• PHILADELPHIA
• CLEARFIELD
• BELLEFONTE

File: 18 1836
cc: Bush Harbison
Tyrrell Smith
Sandusky

Wyatte
Berschak

DEPARTMENT OF ENVIRONMENTAL PROTECTION

* * * * *

IN RE: EQB HEARING - PROPOSED REGULATIONS
REGARDING CONTROL OF
VOLATILE ORGANIC COMPOUNDS
(VOCs) FROM GASOLINE
DISPENSING FACILITIES
(STAGE II)

ORIGINAL

* * * * *

LOCATION: Southwest Regional DEP Office
500 Waterfront Drive
Pittsburgh, PA

HEARING: Tuesday, June 3, 1997
1:00 P.M.

WITNESSES: None

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REPORTER: AMY HIRSCH

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1	I N D E X
2	OPENING STATEMENT
3	by Mr. Charleton
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1 P R O C E E D I N G S
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33 BILL CHARLETON:

4 Welcome to this Environmental
5 Quality Board public hearing on Control
6 of Volatile Organic Compounds from
7 Gasoline Dispensing Facilities, also
8 known as Stage II. This proposal was
9 approved by the EQB on March 18, 1997.

10 My name is Bill Charleton. I
11 am the Chief of the Engineering
12 Services section for DEP's Southwest
13 Regional air quality program. I have
14 been asked by EQB Chairman Seif to
15 chair this hearing today due to the
16 unavailability of any EQB members.

17 Also with me today from the
18 DEP is Terry Black from Policy and
19 Regulation Development Section with the
20 Air Quality Program in our Central
21 office.

22 Notice of today's hearing was
23 printed in the Pennsylvania Bulletin on
24 May 3, 1997. In addition, a notice was
25 published in the Pittsburgh Post

1 Gazette on May 2.

2 The proposal clarifies the
3 existing Stage II regulatory
4 requirements and makes those
5 requirements consistent with the Air
6 Pollution Control Act, the Pennsylvania
7 Air Pollution Control Act, as well as
8 the Federal Clean Air Act requirements
9 related to functional testing and
10 certification of Stage II controls.

11 Pennsylvania is required under the
12 Federal Clean Air Act to fully adopt
13 control strategies by December 31,
14 1997, to bring the seven-county
15 Pittsburgh-Beaver Valley Area into
16 attainment with the National Ambient
17 Air Quality Standards for ozone. In
18 the event Pennsylvania does not have
19 the regulation adopted by December 31,
20 1997, Clean Air Act sanctions will be
21 applicable to the area on January 10,
22 1998.

23 The Southwest Pennsylvania
24 Stakeholder's Group, which was formed
25 in March 1996 by Governor Ridge to

1 recommend strategies for ozone
2 attainment and maintenance based on the
3 current health-based standards,
4 specifically recommended revising the
5 applicability levels and compliance
6 dates in the regulation. This
7 recommendation, however, conflicts with
8 the provisions of Section 6.7 of the
9 Pennsylvania Air Pollution Control Act.
10 The DEP is seeking an amendment to
11 Section 6.7 of Pennsylvania Air
12 Pollution Control Act to implement the
13 Stakeholders' recommendation by
14 regulation.

15 Because of the tight time
16 frame for implementation of the control
17 strategies and of sanctions, DEP is
18 proposing that the EQB adopt the
19 rulemaking as proposed. Comments of
20 the Stakeholders' recommendations are
21 specifically being sought as indicated
22 in the preamble to the proposed
23 rulemaking. In the event the
24 Pennsylvania Air Pollution Control Act
25 were amended by the time of final

1 rulemaking, we would finalize the
2 regulation incorporating the
3 Stakeholders' recommendation without
4 starting over with a new proposal,
5 making it possible to meet the short
6 implementation time frame.

7 In order to give everyone an
8 equal opportunity to testify at this
9 hearing, I would like to note the
10 following ground rules:

11 I will first call upon the
12 witnesses who have preregistered to
13 testify at today's hearing as included
14 on today's schedule of witnesses.

15 After hearing from these witnesses, I
16 will provide any other interested
17 parties with the opportunity to testify
18 as time allows.

19 Oral testimony is limited to
20 ten minutes.

21 Organizations are requested to
22 designate one witness to present
23 testimony on its behalf.

24 Each witness must submit three
25 written copies of the testimony to aid

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4 Please state your name and
5 address for the record, prior to
6 presenting your testimony.

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8 help in spelling names and terms that
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10 the transcript can be as accurate as
11 possible.

12 Interested persons may submit
13 written comments in addition to or in
14 place of oral testimony presented
15 today. All comments must be received
16 by the EQB by July 3, 1997. Comments
17 should be addressed to the
18 Environmental Quality Board, Post
19 Office Box 8477, Harrisburg, PA 17105-
20 8477.

21 Anyone interested in a
22 transcript of this hearing may contact
23 the stenographer here today to arrange
24 to purchase a copy.

25 Since there were no

1 preregistered witnesses, we will now
2 ask if there's anyone present who
3 wishes to present oral testimony?

4 Having given the opportunity
5 for all here to present testimony and
6 there being no more witnesses, this
7 hearing is adjourned.

8 * * * * *

9 HEARING CONCLUDED AT 1:05 P.M.

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5 **CERTIFICATION**

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7 I hereby certify that the foregoing is a true and correct
8 transcript of the notes taken by me at the hearing in this matter.

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10 DATE

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JUL 25 1997

INDEPENDENT REGULATORY
REVIEW COMMISSION**Annex A
(PROPOSED)**ORIGINAL: #1836
COPIES: HARBISON
SMITH
SANDUSKY
WYATTE
BERESCHAK**TITLE 25. ENVIRONMENTAL PROTECTION****PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION****Subpart C. PROTECTION OF NATURAL RESOURCES****ARTICLE III. AIR RESOURCES****CHAPTER 129. STANDARDS FOR SOURCES****MOBILE SOURCES****§ 129.82. Control of VOCs from gasoline dispensing facilities (Stage II).**

(a) After the date specified in paragraph (1) or (2), an owner or operator of a gasoline dispensing facility subject to this section may not transfer or allow the transfer of gasoline into a motor vehicle fuel tank unless the dispensing facility is equipped with a Department approved and properly operating Stage II vapor recovery or vapor collection system. Unless a higher percent reduction is required by the EPA under section 182 of the Clean Air Act (42 U.S.C.A. § 7511a) approval by the Department of a Stage II vapor collection system will be based on a determination that the system will collect at least 90% by weight, of the gasoline vapors that are displaced or drawn from a vehicle fuel tank during refueling and the captured vapors are returned to a vapor tight holding system or vapor control system.

(1) This paragraph applies to gasoline dispensing facilities located in areas classified as moderate, serious or severe ozone nonattainment areas under section 181 of the Clean Air Act (42 U.S.C.A. § 7511) including the counties of Allegheny, Armstrong, Beaver, Berks, Bucks, Butler, Chester, Delaware, Fayette, Montgomery, Philadelphia, Washington and Westmoreland with monthly throughputs greater than 10,000 gallons (37,850 liters). In the case of independent small business marketers of gasoline as defined in section 325 of the Clean Air Act (42 U.S.C.A. § 7625a), this section will not apply if the monthly throughput is less than 50,000 gallons (189,250 liters).

(i) Facilities for which construction was commenced after November 15, 1990, shall achieve compliance by [August 8, 1992] MAY 15, 1993.

(ii) Facilities which dispense greater than 100,000 gallons (378,500 liters) of gasoline per month, based on average monthly sales for the 2-year period immediately preceding [February 8, 1992] NOVEMBER 15, 1992, shall achieve compliance by [February 8, 1993] NOVEMBER 15, 1993.

(iii) All other affected facilities shall achieve compliance by [February 8, 1994] NOVEMBER 15, 1994.

(2) Gasoline dispensing facilities with annual throughputs greater than 10,000 gallons in the counties of Bucks, Chester, Delaware, Montgomery and Philadelphia shall be subject to the requirements of this section immediately upon the addition or replacement of one or more underground gasoline storage tanks for which construction was commenced after [February 8, 1992] NOVEMBER 15, 1992.

(3) For purposes of this section, the term "construction" includes, but is not limited to, the addition or replacement of one or more underground GASOLINE storage tanks.

(b) Owners or operators, or both, of gasoline dispensing facilities subject to [the requirements of] this section shall:

* * * - * *

(5) Maintain records of SYSTEM TEST RESULTS, monthly throughput, type and duration of any failures of the system and maintenance and repair records ON THE PREMISES OF THE AFFECTED GASOLINE DISPENSING FACILITY. The records shall be kept for at least 2 years and shall be made available for inspection, UPON REQUEST, by the Department.

* * * * *

(d) THE OWNERS OR OPERATORS, OR BOTH, OF GASOLINE DISPENSING FACILITIES SHALL COMPLY WITH THE FUNCTIONAL TESTING AND CERTIFICATION REQUIREMENTS SPECIFIED IN THE EPAs STAGE II ENFORCEMENT AND TECHNICAL GUIDANCE DOCUMENTS DEVELOPED UNDER SECTION 182 OF THE CLEAN AIR ACT TO MEET THE CLEAN AIR ACT REQUIREMENTS FOR AREAS CLASSIFIED AS MODERATE, SERIOUS, SEVERE OR EXTREME OZONE NONATTAINMENT.

(1) UPON INSTALLATION OF A DEPARTMENT APPROVED STAGE II SYSTEM THE FUNCTIONAL TESTING AND CERTIFICATION REQUIREMENTS SHALL INCLUDE:

(i) A DYNAMIC BACKPRESSURE TEST UPON INSTALLATION AND EVERY 5 YEARS THEREAFTER.

(ii) A LEAK OR PRESSURE DECAY TEST UPON INSTALLATION AND EVERY 5 YEARS THEREAFTER FOR VAPOR BALANCE SYSTEMS AND UPON INSTALLATION AND ONCE IN EVERY 12 MONTH PERIOD THEREAFTER FOR VACUUM ASSIST SYSTEMS.

(ii) A LIQUID BLOCKAGE TEST UPON INSTALLATION AND EVERY 5 YEARS THEREAFTER.

(iv) AN AIR TO LIQUID RATIO TEST UPON INSTALLATION AND EVERY 5 YEARS THEREAFTER FOR VACUUM ASSIST SYSTEMS TO WHICH THE TEST IS APPLICABLE.

(2) OWNERS OR OPERATORS, OR BOTH, OF GASOLINE DISPENSING FACILITIES SUBJECT TO THIS SECTION SHALL PROVIDE AT LEAST 48 HOURS ADVANCE NOTICE OF WHEN THE TESTING WILL OCCUR AND WHAT PARTY WILL CONDUCT THE TESTING.

(3) THE SYSTEM SHALL BE RETESTED UPON MAJOR SYSTEM REPLACEMENT OR MODIFICATION.

Stage II**(STAKEHOLDER)****Title 25. Environmental Resources****Part I. Department of Environmental Protection****Subpart C. Protection of Natural Resources****Article III. Air Resources****Chapter 129. Standards for Sources****§129.82. Control of VOCs from gasoline dispensing facilities (Stage II).**

(a) After the date specified in paragraph (1) [or] (2), OR (3) an owner or operator of a gasoline dispensing facility subject to this section may not transfer or allow the transfer of gasoline into a motor vehicle fuel tank unless the dispensing facility is equipped with a Department approved and properly operating Stage II vapor recovery or vapor collection system. Unless a higher percent reduction is required by the EPA under section 182 of the Clean Air Act (42 U.S.C.A. §7511a) approval by the Department of a Stage II vapor collection system will be based on a determination that the system will collect at least 90% by weight, of the gasoline vapors that are displaced or drawn from a vehicle fuel tank during refueling and the captured vapors are returned to a vapor tight holding system or vapor control system.

(1) This paragraph applies to gasoline dispensing facilities located in [areas classified as moderate, serious or severe ozone nonattainment areas under section 181 of the Clean Air Act (42 U.S.C.A. §7511) including] the counties of [Allegheny, Armstrong, Beaver, Berks,] Bucks, [Butler,] Chester, Delaware, [Fayette,] Montgomery, Philadelphia, Washington, and Westmoreland] with monthly throughputs greater than 10,000 gallons (37,850 liters). In the case of independent small business marketers of gasoline as defined in section 325 of the Clean Air Act (42 U.S.C.A. §7625a), this section will not apply if the monthly throughput is less than 50,000 gallons (189,250 liters).

(i) Facilities for which construction was commenced after November 15, 1990 shall achieve compliance by [August 8, 1992] MAY 15, 1993.

(ii) Facilities which dispense greater than 100,000 gallons (378,500 liters) of gasoline per month, based on average monthly sales for the 2-year period immediately preceding [February 8, 1992] NOVEMBER 15, 1992 shall achieve compliance by [February 8, 1993.] NOVEMBER 15, 1993.

(iii) All other affected facilities shall achieve compliance by [February 8, 1994.] NOVEMBER 15, 1994.

(2) Gasoline dispensing facilities with annual throughputs greater than 10,000 gallons in the counties of Bucks, Chester, Delaware, Montgomery and Philadelphia shall be subject to the requirements of this section immediately upon the addition or replacement of one or more underground gasoline storage tanks for which construction was commenced after [February 8, 1992.] NOVEMBER 15, 1992.

(3) THIS PARAGRAPH APPLIES TO GASOLINE DISPENSING FACILITIES LOCATED IN THE COUNTIES OF ALLEGHENY, ARMSTRONG, BEAVER, BUTLER, FAYETTE, WASHINGTON AND WESTMORELAND WITH MONTHLY THROUGHPUTS GREATER THAN 10,000 GALLONS (37,850 LITERS).

(i) ALL FACILITIES FOR WHICH CONSTRUCTION WAS COMMENCED AFTER APRIL 1, 1997 SHALL ACHIEVE COMPLIANCE AT THE TIME OF OPENING OF THE GASOLINE DISPENSING FACILITY.

(ii) FACILITIES WHICH DISPENSE GREATER THAN OR EQUAL TO 120,000 GALLONS (378,500 LITERS) OF GASOLINE PER MONTH BASED ON AVERAGE MONTHLY SALES DURING CALENDAR YEARS 1995 AND 1996 SHALL ACHIEVE COMPLIANCE BY DECEMBER 31, 1998.

(iii) FACILITIES WHICH DISPENSE GREATER THAN 90,000 GALLONS PER MONTH BUT LESS THAN 120,000 GALLONS PER MONTH BASED ON AVERAGE MONTHLY SALES DURING CALENDAR YEARS 1995 AND 1996 SHALL ACHIEVE COMPLIANCE BY DECEMBER 31, 2000.

(14) For purposes of this section, the term "construction" includes, but is not limited to, the addition or replacement of one or more underground GASOLINE storage tanks[.] OR SUBSTANTIAL DISTURBANCE OF UNDERGROUND GASOLINE STORAGE TANKS OR ASSOCIATED PIPING.

(b) Owners or operators, or both, of gasoline dispensing facilities subject to the requirements of this section shall:

(1) Install necessary Stage II vapor collection and control systems, provide necessary maintenance and make modifications necessary to comply with the requirements.

(2) Provide adequate training and written instructions to the operator of the affected gasoline dispensing facility to assure proper operation of the system.

(3) Immediately remove from service and tag any defective nozzle or dispensing system until the defective component is replaced or repaired. A component removed from service may not be returned to service until the defect is corrected. If the Department finds

that a defective nozzle or dispensing system is not properly tagged during an inspection, the component may not be returned to service until the defect is corrected, and the Department approves its return to service.

(4) Conspicuously post operating instructions for the system in the gasoline dispensing area which, at a minimum, include;

(i) A clear description of how to correctly dispense gasoline with the vapor recovery nozzles utilized at the site.

(ii) A warning that continued attempts to dispense gasoline after the system indicates that the vehicle fuel tank is full may result in spillage or recirculation of the gasoline into the vapor collection system.

(iii) A telephone number established by the Department for the public to report problems experienced with the system.

(5) Maintain records of SYSTEM TEST RESULTS, monthly throughput, type and duration of any failures of the system and maintenance and repair records ON THE PREMISES OF THE AFFECTED GASOLINE DISPENSING FACILITY. The records shall be kept for at least 2 years and shall be made available for inspection, UPON REQUEST, by the Department.

(c) If an area is reclassified from attainment or marginal nonattainment to serious[]OR severe [or moderate] nonattainment under section 181 of the Clean Air Act, gasoline dispensing facilities located in the reclassified area will be subject to the requirements of subsection (a)(1). For purposes of establishing an effective date for the reclassified area, the date of the Federal Register final notice of the reclassification shall serve as the date of publication of this subsection as final in the Pennsylvania Bulletin.

(d) IF AN ON-BOARD CANISTER REFUELING EMISSIONS CONTROL PROGRAM HAS BEEN FULLY IMPLEMENTED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY BY DECEMBER 31, 2010, THE OPERATION AND MAINTENANCE OF DEPARTMENT-APPROVED STAGE II SYSTEMS WILL NO LONGER BE REQUIRED IN THE COUNTIES OF ALLEGHENY, ARMSTRONG, BEAVER, BUTLER, FAYETTE, WASHINGTON, AND WESTMORELAND.

(e) THE OWNERS OR OPERATORS, OF GASOLINE DISPENSING FACILITIES SHALL COMPLY WITH THE FUNCTIONAL TESTING AND CERTIFICATION REQUIREMENTS SPECIFIED IN EPA'S STAGE II ENFORCEMENT AND TECHNICAL GUIDANCE DOCUMENTS DEVELOPED UNDER SECTION 182 OF THE CLEAN AIR ACT TO MEET THE CLEAN AIR ACT REQUIREMENTS.

(1) UPON INSTALLATION OF A DEPARTMENT APPROVED STAGE II SYSTEM THE FUNCTIONAL TESTING AND CERTIFICATION REQUIREMENTS SHALL INCLUDE:

(i) A DYNAMIC BACKPRESSURE TEST UPON INSTALLATION AND EVERY FIVE (5) YEARS THEREAFTER.

(ii) A LEAK OR PRESSURE DECAY TEST UPON INSTALLATION AND EVERY FIVE (5) YEARS THEREAFTER FOR VAPOR BALANCE SYSTEMS AND UPON INSTALLATION AND ONCE IN EVERY TWELVE (12) MONTH PERIOD THEREAFTER FOR VACUUM ASSIST SYSTEMS.

(iii) A LIQUID BLOCKAGE TEST UPON INSTALLATION AND EVERY FIVE (5) YEARS THEREAFTER.

(iv) AN AIR TO LIQUID RATIO TEST UPON INSTALLATION AND EVERY FIVE (5) YEARS THEREAFTER FOR VACUUM ASSIST SYSTEMS TO WHICH THE TEST IS APPLICABLE.

(2) OWNERS AND OPERATORS OF GASOLINE DISPENSING FACILITIES SUBJECT TO THE REQUIREMENTS OF THIS SECTION SHALL PROVIDE AT LEAST 48 HOURS ADVANCE NOTICE TO THE DEPARTMENT OF WHEN THE TESTING WILL OCCUR AND WHAT PARTY WILL CONDUCT THE TESTING.

(3) THE SYSTEM MUST BE RETESTED UPON MAJOR SYSTEM REPLACEMENT OR MODIFICATION.

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EXXON COMPANY, U.S.A.

P. O. Box 2180, Suite 2659D
Houston, TX 77252-2180

Legislative & Regulatory Affairs
Marketing Department
F. M. Anderson
(713) 656-2998

June 10, 1997

Environmental Quality Board
15th Floor - Rachel Carson State Office Building
P. O. Box 8477
Harrisburg, PA 17105 - 8477

RE: Proposed Revisions to 129.82 Control of VOC's From Gasoline Dispensing Facilities (Stage II)

Gentlemen/Ladies,

Exxon Co. - Marketing Department appreciates the opportunity to offer comments on the proposed rule amendments and the Stakeholders recommendations.

We support and endorse the proposed revisions to 129.82. Regarding the Stakeholder recommendations, we endorse and believe the Stakeholder process is a meaningful way to discuss and review all available options to achieve a consensus on issues and recommend appropriate solutions. However, although the Stakeholder process essentially worked to recommend emission control programs, we have a number of concerns regarding the recommended provisions and proposed implementation of the Stage II program.

- 1)The Stakeholders recommended Stage II implementation schedule and throughput cutoff size is not consistent with, and is in conflict with the Pennsylvania Air Pollution Control Act (APCA) and Federal Clean Air Act (CAA).
- 2) Section 6.7 of APCA and Chapter 129.82 of the Air Resources Rule have specific provisions requiring Stage II to be installed at facilities which dispense greater than 100,000 gals/mo by November 1993 and at all other affected facilities by November 1994. Many facilities met the installation deadlines and have been operating with Stage II as required by the law and rules. Exxon and others did this even though the Department issued a "no-enforcement policy" in late 1993 because the law explicitly requires compliance. Non-enforcement of the existing Stage II requirements creates business uncertainty and uncompetitive situations. It affects the credibility of, and compliance with, other laws and rules, and is unfair to those who comply with the law. Non-enforcement without meaningful legal protection from liability is bad public policy.

3) The Department states they intend to seek a repeal of section 6.7 of APCA to allow implementation of the Stakeholders recommendation by rule. The Department furthur states that as an alternative to repeal of section 6.7 they will begin to implement Stage II on the same schedule as recommended by the Stakeholders and in addition, add a provision that after the year 2000, Stage II will be required at all facilities regulated by APCA and 129.82 but will defer the decision to enforce this provision until that time.

We do not believe the APCA gives the Department the legal authority to continue with a "no-enforcement policy" as will be required until the law is changed and furthur rule revisions are proposed and finalized. In addition, we believe the proposal to implement Stage II on the "alternative schedule" is in direct violation of APCA and the federal Clean Air Act (CAA) requirements and we question how EPA could approve these proposed Stage II rule amendments as a SIP revision knowing that the rules are not going to be enforced by the PADEP. It is interesting to note however, that if EPA would approve the proposed rule revisions to 129.82 as an approvable SIP, this would give EPA enforcement authority to require Stage II at all affected facilities effective May 15, 1993, November 15, 1993 or November 15, 1994 (depending on when construction was commenced and facility thruput volumes).

Furthermore, it is uncertain as to what the Department has been enforcing for the past two months (April and May) at any new or renovated facilities. What will happen at facilities after 2000 that have not been renovated but dispense less than 90,000 gals/mo? This continuing uncertainty places an undue burden on the regulated community.

4) The Stakeholders did not include "an average of 10,000 gallons or more per month" in the April 1, 1997 deadline for newly constructed facilities or reopening of facilities which have been rebuilt or renovated, or where UST's have been substantially disturbed. Since the Department was a member of the Stakeholders group, why is the Stakeholders proposal now being changed?

In summary, we believe the proposed Stakeholder recommendations for Stage II and the Department's proposed implementation schedule conflict with existing federal and state law. In addition, the proposal does not accurately reflect the Stakeholders final recommendations.

Please call me if you have any questions or wish to furthur discuss our comments.

Yours truly,



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INDEPENDENT REGULATORY
REVIEW COMMISSION**Summary of Comments
Stage II**

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One commentator offered the following comments regarding the proposed Stage II revisions.

1. The proposed revisions to the Stage II regulations are in conflict with the throughput levels and the implementation schedule provisions of the federal Clean Air Act (CAA) and the Pennsylvania Air Pollution Control Act. No change was made to the proposal.
2. The Department does not have the legal authority to continue its present enforcement policy with respect to Stage II. No change was made to the proposal.
3. The proposed revisions contain a 10,000 gallon per month throughput level for newly constructed tanks. The stakeholders did not specify such a threshold for new or reconstructed stations. No change was made to the proposal.

One commentator offered the following comments:

1. The requirements should not make both the owner and operator responsible for the installation and operation of the Stage II systems. The requirements should specify that the operator is responsible for assuring employee training and system maintenance and operation. An owner should not be held responsible unless the owner is the also the operator. No change will be made in response to this comment.
2. The regulation should be modified to allow maintenance of records off site and made available to the Department within a reasonable time. No change will be made in response to this comment.
3. The proposed regulation lists compliance dates which have expired. No change will be made in response to this comment.

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cc

**Senator Roger Madigan, Chairman
Senate Environmental Resources & Energy Committee
286 Main Capitol
Harrisburg, PA 17120**

**Representative Robert Reber, Chairman
House Environmental Resources & Energy Committee
149 Main Capitol
Harrisburg, PA 17120**

**Mr. Richard Sandusky
Independent Regulatory Review Commission
14th floor, Harristown Two
333 Market St.
Harrisburg, PA 17101**

**Mr. David Arnold, Chief
Ozone/CO & Mobile Sources
USEPA Region III
841 Chestnut Building
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SAROSH J. H. MANEKSHAW
Director
Environmental, Safety
and Health Affairs



July 3, 1997

Environmental Quality Board
Pennsylvania Department of Environmental Protection
P.O. Box 8477
Harrisburg, PA 17105-8477

SUBJECT: Proposed Rules - Control of VOCs from Gasoline Dispensing Facilities (Stage II)
25 PA Code Chapter 129
Pennsylvania Bulletin, May 3, 1997, pages 2239-2242.

Environmental Quality Board:

Pennzoil Company is a natural resource company engaged, with its subsidiaries, in the exploration, production, refining, sales, and distribution of petroleum and petroleum-based products, and in the automotive quick oil change and lubrication service industry. In Southwestern Pennsylvania, Pennzoil owns or operates approximately 10 retail gasoline facilities in the Pittsburgh-Beaver Valley Area which would be affected by the proposed regulation.

Pennzoil submits the following comments on the proposed regulation affecting the control of VOCs from gasoline dispensing facilities (Stage II).

Owner/Operator Clarification of Responsibilities

The proposed regulation discusses various responsibilities of "owners or operators, or both". Pennzoil owns many retail gasoline facilities that are operated by other parties. Because the owner has limited control over the daily operation of these facilities, it is not feasible to require the "owner" to be responsible for actions to be completed by the "operator". These responsibilities could include training or day-to-day recordkeeping. Specifically, if the owner has a written agreement directing the operator to complete Stage II requirements, and the operator does not complete his responsibilities, the owner should not be held accountable for the operator's failure to meet operating requirements.

Pennzoil suggests that responsibilities for Stage II installation, recordkeeping, and training be modified to specify that the "operator", rather than the "owner or operator" has the responsibility to complete these requirements. At a minimum, the regulations could be amended to specify that DEP would cite the operator as the violator if the owner and operator have a written agreement stating that the operator will be responsible for compliance.

Recordkeeping Requirements

The proposed regulation specifies that records, including system test results, monthly throughput, type and duration of any failures of the system, and maintenance and repair records be kept "on the premises of the affected gasoline dispensing facility." In many instances, it is much more practical and effective for records of this type to be filed in a central operations office and be made available as soon as practicable upon request of the DEP.

Pennzoil suggests that the proposed amendment to maintain records "on the premises of the affected gasoline dispensing facility" be deleted. With this deletion, the intent of the section, that the records be "made available for inspection, upon request" would not be changed.

Compliance Dates

The current proposal lists compliance dates which have expired. Pennzoil understands that after appropriate legislation is completed, the compliance dates in the regulation will be changed to match the dates specified in the Stakeholders report.

Conclusion

Again, Pennzoil appreciates the opportunity to participate in this rulemaking process. We hope that our comments will assist the DEP in creating reasonable and effective Stage II regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "James E. Shanahan". The signature is fluid and cursive, with a long horizontal line extending from the end of the last name.

JASON T. RASH
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These comments are The Clean Air Council's official response to the Pennsylvania Department of Environmental Protection's Environmental Quality Board proposal to amend Chapter 129 (Standards For Resources - Mobile Sources) of Title 25. Environmental Protection, Part I. Department of Environmental Protection, Subpart C. Protection of Natural Resources of Article III. Air Resources

The Clean Air Council was founded in 1967 as a citizen-based, non-profit organization to address the growing environmental problems in the Delaware Valley, especially their impact on air quality. The Council works through a combination of public education, community advocacy, and oversight of government enforcement of environmental laws to ensure that all residents of Pennsylvania live in a healthy environment. Responses to these comments should be sent to Jason A. Rash, Esq., Clean Air Council, 135 S. 19th Street, Suite 300, Philadelphia, Pa. 19103.

The Council strongly supports the implementation of the Stage II vapor recovery system at gasoline dispensing facilities located in moderate, serious, and severe ozone attainment areas throughout Pennsylvania. Stage II vapor recovery plays a crucial role in the reduction of volatile organic compound (VOC) emissions, one of the precursors of ground level ozone.

The Council, however, has several concerns with the proposed regulations. The Council strongly urges DEP to extend the use of Stage II to every county throughout the Commonwealth. Limiting the amount of gasoline vapors from a fuel dispenser helps to protect the public health as individuals fuel their cars; a cause DEP should promote throughout the entire Commonwealth and not just in a few selected counties.

The Council also believes that gasoline dispensing facilities should have been required to have started using the Stage II system as far back as five years ago. DEP consistently permits clean air program implementation deadlines to lapse without imposing any sort of penalty on the applicable sources. This practice endangers the health

Clean Air Council



of all Pennsylvanians as well as sends a message to polluters that they are welcome in Pennsylvania because environmental enforcement is not a priority.

Finally, five years in between each performance and maintenance test for a facility's Stage II system is too much time. Pennsylvania boasts several millions of drivers who consume an exorbitant amount of gasoline. More consumption results in more wear and tear on Stage II systems and this increases the likelihood of breakdowns. More frequent inspections would help ensure each system's integrity and keep down the amount of VOC emissions.