



Original: 1877  
Copies: Tyrrell  
Sandusky  
Wyatte  
Bereschak

p.o. box 8477 • harrisburg, pa. 17105-8477 • (717) 787-4526

97 OCT 32 AM 2:57

October 24, 1997

RECEIVED COLLECTION

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

Re: Proposed Rulemaking - Malodors (RBI #3) (#7-325)

Dear Mr. Nyce:

The Environmental Quality Board has received comments regarding the above referenced proposed rulemaking from the following:

1. Mr. Wallace Grevna

These comments are enclosed for your review. Copies have also been forwarded to the Senate and House Environmental Resources and Energy Committees. Please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads 'Sharon K. Freeman'.

Sharon K. Freeman  
Regulatory Coordinator

Enclosure



#1  
From the Newspaper write up on clean air  
and comments on it Oct 17 1997

I have a 200 foot long property at the <sup>dead</sup> end of  
Gaines ave. Elco, Pa. I had clean air on this  
property until Charles Roberts moved in  
and opened up a auto Repair shop just 22 feet  
from the end of my house then Roberts started to  
spray paint cars too since the air movement  
prevails from the West here the poison sickening  
odor paint fumes were forced on my property  
I seen the Borough about it they informed Roberts  
no auto spray <sup>painting</sup> was allowed in the Borough due  
to the odor and fallout unless clean air  
equipment was installed to prevent this. I  
got white specks of paint on my car too.  
Roberts stopped painting for awhile then the  
poison paint fumes came again so strong  
I was planting the garden 150 feet from that  
garage so strong <sup>fumes</sup> I had to leave the property  
and told Dax Cop a lounclerman about it he  
came with a policeman Mark Stewart and  
stopped Roberts from painting that day but  
it didnt last on long paint fumes came

2

again and again I reported this to the Borough each time Roberts got the Borough ordinance a copy No painting Cars in the Borough allowed still he wouldn't ~~stop~~ stop then the Borough informed the DER The DER was supposed to have told Roberts to install a charcoal barrell to stop the paint fumes as you can see in the photo it is disconnected from the opening on the side of the garage it didn't do any good its now removed completely I heard you have to force auto spray paint fumes under a pool of water to eliminate the odor. After this Roberts lawyer sent all members of Elco Borough council letters telling them to quit Harrassing Roberts there is not one conviction. # Roberts hasenit been fined as yet for Violating the Boroughs ordinance on painting Cars. Then The Boro told me to Call the police things there is a

3

There is a radio club in Elco and Roberts seems to know when the police are coming and moves the cars out being painted out of the garage before they arrive. As you can see the trouble I have trying to stop the air pollution coming from that garage on my property. I'm paying taxes here I want clean air what nature made for people to breathe not sickening odor poison paint fumes they can start anytime you have clean air then that smell on and off I have to get off my porch I have a lot of work maintaining this property I want the air pollution from Charles Roberts garage stopped permanently. The clean air law is needed.

Wallace Greuna  
Gainer ave  
P.O. Box 93  
Elco, Penna 15434

OVER



Environmental Quality Board

Original: 1877  
Copies: Tyrrell  
Sandusky  
Wyatte  
Bereschak

p.o. box 8477 • harrisburg, pa. 17105-8477 • (717) 787-4526

October 27, 1997

97 OCT 28 AM 8:57

RECEIVED

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

**Re: Proposed Rulemaking - Malodors (RBI #3) (#7-325)**

**Dear Mr. Nyce:**

**The Environmental Quality Board has received comments regarding the above referenced proposed rulemaking from the following:**

- 1. Ms. Patricia A. Paul**
- 2. Mr. Thomas Taylor, Jr.**
- 3. Mr. Jerome Balter, Esquire, Public Interest Law Center**

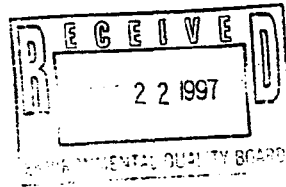
**These comments are enclosed for your review. Copies have also been forwarded to the Senate and House Environmental Resources and Energy Committees. Please contact me if you have any questions.**

**Sincerely,**

**Sharon K. Freeman  
Regulatory Coordinator**

**Enclosure**

Original: 1877  
Copies: Tyrrell  
Sandusky  
Wyatte  
Bereschak



**I N T E R O F F I C E   M E M O R A N D U M**

Date: 21-Oct-1997 02:47pm EST  
From: PaulBrutus  
PaulBrutus@aol.com@PMDF@DER003  
Dept:  
Tel No:

TO: Regcomments ( Regcomments@a1.dep.state.pa.us@PMDF@

Subject: Regulatory Basics Initiative #3 (malodors)

Members of PA Environmental Quality Board:

We respectfully request that you reject DEP's proposal to weaken PA's odor emission standards. No community should have to put up with odor problems for 5 years.

DEP is playing politics. DEP should devote enough resources to adequately respond to resident complaints about odors from facilities. When DEP issues permits for operations, it guarantees that a thorough investigation has been conducted and the regulations in effect at that time can be, and will be, complied with.

Any public servant who approves a weakening of the malodors regulations should be compelled to live, along with their families, in the area having the malodor problems for as long as the malodor conditions exist.

Patricia A. Paul  
R. D. #7, Box 422  
Mount Pleasant, PA 15666

Original: 1877  
Copies: Tyrrell  
Sandusky  
Wyatte  
Bereschak

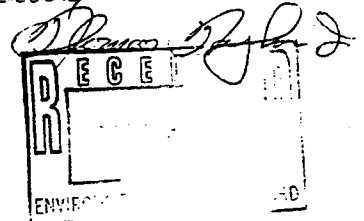
Thomas Taylor Jr.  
Box 202  
Allentown, PA. 15412  
(412) 326-8633

Dear Sirs:

Most residents here would consider a malodor an improvement relative to the odor we are now receiving and have been for the past 2 years since a HAZARDOUS WASTE (hydrochloric acid) RECYCLING PLANT (AMROX, Allentown PA., Washington Co.) went on line approx 9-95. — Relaxing the standards and allowing a stronger malodor would only <sup>allow</sup> the new standards to be hunched even more. — This HAZARDOUS WASTE RECYCLING PLANT IS only 150' from our community's park, a couple hundred <sup>feet</sup> from our homes, fumes are constantly causing us to close our doors and windows, leave our pool decks, boat docks, porches, yards, ect. Playing basketball in the park with my grandchildren I can even smell the exhaust fumes from the trucks waiting to be serviced with HYDROCHLORIC ACID in addition to the fumes from the plant. — Since this comment period concerns only malodor I'll spare you the details of the Fine Particulates, (IRON OXIDE DUST) in the air we are breathing — AND — the spots of acid residue on just about everything outside our homes. The D.E.P. is responding to our calls and is monitoring the plant but the situation still exists.

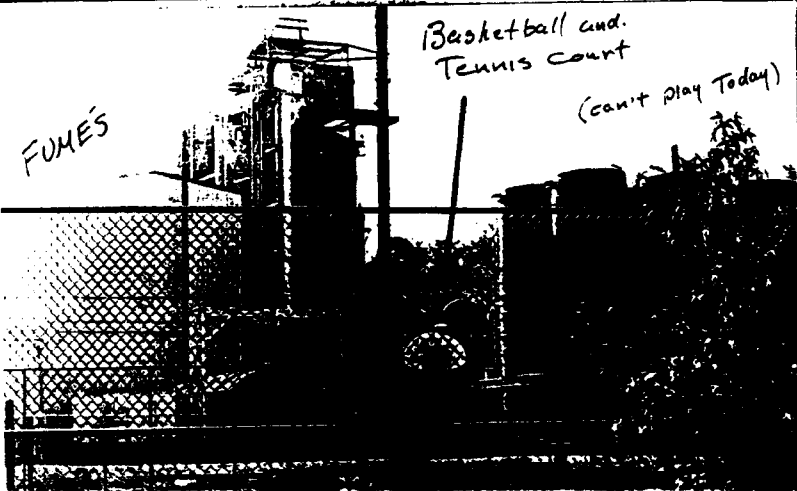
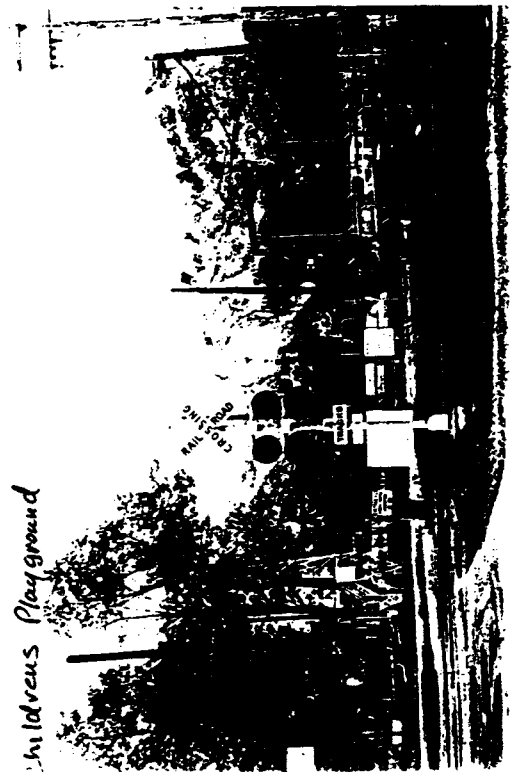
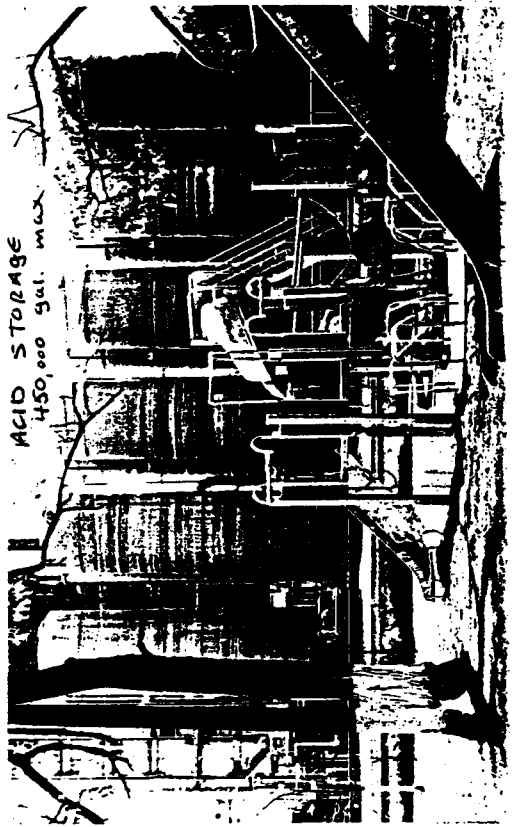
This plant is polluting our community something terrible. You can not, Please do not, allow the situation to get even worse

Sincerely -



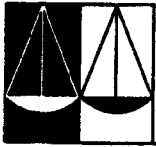
Response,  
Direction, and Information  
would be greatly appreciated.

Thank you.



Box 202  
Allentown, PA. 15412  
(412) 326-8633





**PUBLIC INTEREST LAW  
CENTER OF PHILADELPHIA**

Original: 1877  
Copies: Tyrrell  
Sandusky  
Wyatte  
Bereschak

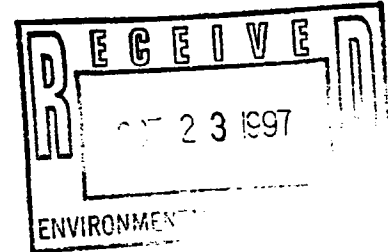
125 South Ninth Street • Suite 700 • Philadelphia, PA 19107 • Phone: 215-627-7100 • Fax: 215-627-3183

Michael Churchill  
Chief Counsel

October 21, 1997

Jerome Balter  
Karen L. Black  
Thomas K. Gilhool  
Judith A. Gran  
Frank J. Laski  
Jessica Lowenthal  
Barbara E. Ransom  
Attorneys

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



Heather M. Bendit  
Director of  
Development

**Re: Proposed changes to Pennsylvania  
Odor Regulations, 25 Pa. Code §121., 123.**

Donald K. Joseph  
Chairman of  
the Board

Dear EQB:

Edwin D. Wolf  
Executive Director  
1974 - 1976

On September 29, 1997, I gave oral testimony at the Public Hearing in King of Prussia, Pa. regarding the proposed revisions to the odor regulations. Based on numerous discussions subsequent to the Public Hearing, I propose the EQB revise its definitions under 25 Pa. Code §121.1 to read as follows:

**Malodor**: An odor which causes annoyance or discomfort to a person who lives or works in the affected community and which odor is subsequently identified by the Department in the course of a malodor investigation.

**Malodor Investigation**: An investigation by the Department to determine the existence and the source of a malodor.

Yours sincerely,

Jerome Balter, Esquire  
Environmental Law Project  
Public Interest Law Center

Affiliated with the  
Lawyers Committee  
for Civil Rights  
Under Law

JB/tk  
cc: Francine Carlini, DEP



Environmental Quality Board

Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal (2)

p.o. box 8477 · harrisburg, pa. 17105-8477 · (717) 787-4526

October 28, 1997

97 OCT 31 PM 9:25  
RECEIVED  
REGULATORY COORDINATOR

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

Re: Proposed Rulemaking - Malodors (RBI #3) (#7-325)

Dear Mr. Nyce:

The Environmental Quality Board has received comments regarding the above referenced proposed rulemaking from the following:

- 1. William S. Skrocki
- 2. John W. Paulshock

These comments are enclosed for your review. Copies have also been forwarded to the Senate and House Environmental Resources and Energy Committees. Please contact me if you have any questions.

Sincerely,

Sharon K. Freeman  
Regulatory Coordinator

Enclosure



Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal (2)

October 21, 1997

James M. Seif, Honorable Chairman  
Pennsylvania Environment Quality Board  
P.O. Box 2063  
Harrisburg, PA 17105-2063

RECEIVED  
97 OCT 23 AM 9:22  
NOTE  
REVIEW COMMISSION

RECEIVED  
97 OCT 23 AM 9:41  
ENV. PROTECTION  
SECRETARY'S OFFICE

Dear Honorable Seif:

I am writing to you as one of the two spokesperson's for several of our neighbors concerning the proposed changes to the Pennsylvania State Department of Environmental Protection odor regulations. Our group of neighbors consist of approximately 15 neighbors.

We vigorously object to these proposed changes and feel that these proposed changes are a step backwards.

For many years, our immediate neighborhood has been victimized by a polluting metal recycler and malodors is one of the forms of pollution that we have been subjected to.

Because of the weak laws or total lack of laws regarding pollution, we are forced to go to Court to seek a remedy.

We feel that the new odor rules that are being proposed, are heavily weighted against the general population and in favor of industry.

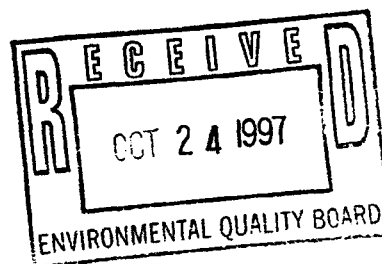
Please take our adverse experiences into consideration when making your decision.

Sincerely,

*Wm. S. Skrocki*

William S. Skrocki  
5204 Sioux Rd.  
Temple, PA 19560-1142  
(610) 929-1149

e-mail [wskrocki@hotmail.com](mailto:wskrocki@hotmail.com)





Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal (2)

*John W. Paulsloch*  
*Pottsville, PA. 17901*

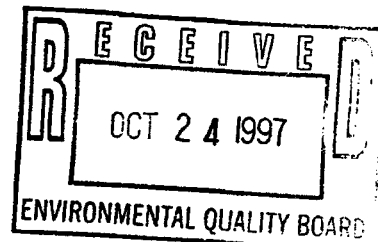
*10/23/97*

Environmental Quality Board  
P.O. Box 8477  
Harrisburg PA 17105-8477

97 OCT 24 PM 8:29

REVIEW DIVISION

*WRC Process  
World Resources Corp*



Dear Sirs,

I am writing to formally oppose revisions to the odor regulations (25 Pa. Code-123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners". The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "Best Available Technologies (BAT)". How will BAT for odors be defined? Will economic considerations be a feature? What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process. This abolishes the process leaving citizens no recourse in the case of persistent problems with malodors. This exemption will not be in the public interest.

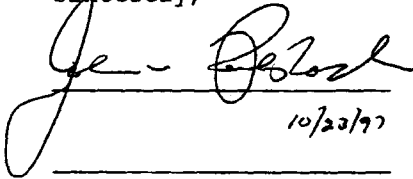
In the case of a landfill, installation of odor control equipment is an on going process, giving a five year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assesment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter township of Berks county? This incident resulted in reports nose bleeds), lightheadedness, headaches and weakness. The Department was able to respond by changing the chemical control. These are but a few of many cases in which this proposed change would prevent the Department from acting and cause health problems to citizens.

The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation. For example odors from a faulty septic system or an illegal drug lab. What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government give away to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

Sincerely,

  
10/23/97

JOHN W. PAULSNOEK  
804 Pinewood Drive  
Pottsville, Pa. 17901



Environmental Quality Board

Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal-2

p.o. box 8477 • harrisburg, pa. 17105-8477 • (717) 787-4526

November 4, 1997

RECEIVED  
97 NOV -7 PM 2:26

RECEIVED  
INDEPENDENT REGULATORY  
REVIEW COMMISSION

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

Re: Proposed Rulemaking - Malodors (RBI #3) (#7-325)

Dear Mr. Nyce:

The Environmental Quality Board has received comments regarding the above referenced proposed rulemaking from the following:

1. Ms. Linda Hogan
2. Mr. Jay B. Bacon and Ms. Linda Bacon
3. Mrs. Gibson Smith, Fox Brush Farm
4. Ms. Jennifer Wilt
5. Patrick and Shirlie McGuire
6. Mr. and Mrs. Stanley Robinson
7. Ms. Rose Horton
8. Mr. Joseph Minott, Clean Air Council
9. Mr. Gary C. Furlong, Sun Company, Inc.
10. Michael D. Fiorentino, Clean Air Council
11. Mr. Myron Arnowitt, Clean Water Action
12. Sarosh J. H. Manekshaw, Pennzoil Company
13. Mr. Leroy P. Miller
14. Sena and Robert Shomo
15. Melvin C. and Grace Gehris
16. Ms. Dorothy J. Golden
17. Ms. Nancy L. Tobias, Ms. Debra Swavely, Ms. Linda M. Katzermeyer and George and Diane Straub, Local Environmental Awareness Development Group
18. Daniel and Lois R. Eaton (no address)
19. Jeanne Howard (no address)
20. Mr. Thomas Detwiler (no address)
21. William and Nancy Ambler

These comments are enclosed for your review. Copies have also been forwarded to the Senate and House Environmental Resources and Energy Committees. Please contact me if you have any questions.

Sincerely,

Sharon K. Freeman  
Regulatory Coordinator

Enclosure





Original: 1871  
Copies: Tyrrell  
Sandusky  
Legal - 2

*J. Black*



RECEIVED  
97 NOV -7 PM 2:28  
REVIEW COMMISSION

OCT 29 1997  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIV. OF COMPLIANCE & ENFORCEMENT

Sun Company, Inc.  
3744 Passyunk Avenue  
Philadelphia PA 19145-5299  
215-339-2000  
10/28/97

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

To Whom It May Concern: (Re: The Malodor Proposals at PA 25, §121.1 and 123.31)

Sun Co. operates petroleum refineries and related facilities in Pennsylvania that are affected by the subject changes to the malodor regulation. Detailed comments are attached to this summary.

Our first comment supports the BAT for Odors approach at §123.31(c); however, we recommend that the existing paragraph at §123.31(a) be deleted because it is redundant to the BAT approach and is additionally either impossible or ineffective in application, or impossible to enforce, depending on the odor source.

Our second comment strongly recommends that the concept of annoyance or discomfort to the public be retained in the Malodor definition. A singular complaint should not necessarily lead to a Malodor finding. The Department must retain the authority to terminate an investigation based on common sense and consistency with the Penna. statute definition for "air pollution".

In the context of our first two comments we support the addition of an "odor investigation" requirement which improves objectivity in discovery and mitigation, and we support the 5 year protection on any BAT finding which protects the mitigation process from second guessing.

Our fourth comment is in regard to the existence of this regulation in the Pennsylvania SIP. To our knowledge no other state has placed its' odor regulation in the SIP. The Department should be concerned that this invites Federal enforcement in matters that should be resolved at a local and state level. Furthermore, this regulation does not meet the criteria for placement in the SIP according to the Pennsylvania Statute. While the Board and the Department may not be able to address this anomaly as part of a Malodor amendment, we respectfully request that the Board and the Department first give serious consideration to its' implications in the present rulemaking and then take it into deliberation for a SIP change.

Very Truly Yours,

*Gary C. Furlong*  
Gary C. Furlong  
Sr. Env. Consultant - Air

COMMENTS OF SUN CO. INC.  
TO THE PROPOSED MALODOR REGULATION CHANGES AT  
PA TITLE 25, §121.1 AND §123.31

1) The malodor limitations specified at §123.31 (a) should be deleted, and new paragraph (c) should stand alone in pointing to control measures appropriate to odor control.

The preamble to this proposal says that existing paragraph (a) refers to VOC odor sources, an interpretation not supported by the plain language of this paragraph. Whether or not paragraph (a) refers to VOC, it stipulates a type and a degree of control that is over-control in some circumstances, under-control in other circumstances, and impossible to apply in still other circumstances. Presumably that is why paragraph (a) also has the caveat that techniques other than incineration may be applied, etc.. We suggest that paragraph (a) be deleted in its entirety. New paragraph (c) provides a better degree of flexibility to the Department in approving technologies and degrees of control appropriate to odor sources.

2.) Frequency of occurrence, the extent of public objection, and other data must be carefully considered by the Department in establishing a malodor. The Department must reserve judgment regarding single occurrences. The elements of annoyance and discomfort to the public should not be removed from the definition of Malodor.

The Department has asked for comment on how frequency of occurrence and the extent of public objection be evaluated. Odors can originate from diverse sources, and many odors may be caused by temporary conditions or circumstances outside the control of a source. Also, odors will vary in characteristic from those that are objectionable to any exposed person or a group of persons (i.e., the public) to those that are objectionable to one person. Since there is no instrument to measure odor objectionability, the Department will always have to rely on subjective criteria for action after an initial complaint. We suggest that a single complaint and/or a single occurrence should not in themselves lead to a malodor finding. The investigation by the Department may indeed find that a particular first occurrence was an abnormality that needs no further attention; or it may find that a single-individual complaint is not indicative of the general public response. We believe the Department must therefore reserve to itself the authority to terminate an investigation based on common sense. To reserve this authority, the Department should retain the concept of the public in the Malodor definition as opposed to a single individual. Furthermore, the concepts of annoyance and discomfort in the existing Malodor definition have historic standing in common and statutory law (e.g., the recent Pa. Third Circuit Court of Appeals case involving the current definition), and should be retained in the Malodor definition. This would keep the definition of Malodor consistent with the statutory definition of "air pollution" which includes odors among the substances of concern when they are "--inimical to public health, safety or welfare --".

Based on the discussion above, we strongly urge the Department to adopt a Malodor definition as follows:

*Malodor - An objectionable odor which causes annoyance or discomfort to the public that is first identified by a member of the public and subsequently documented by the Department in the course of an odor investigation to be an odor which is objectionable to the public.*

3.) In the context of our comments above, other additions to the regulation are appropriate.

We support the concept of "odor investigation" added to the regulation because it adds order to the malodor discovery and reduction process that is lacking in the existing regulation. Furthermore, the addition of §123.31(c) seems to focus attention toward controls appropriate to the type of odor source determined by an investigation. The 5 year protection on a measure applied after a thorough process by the source and the Department also seems appropriate since the measure applied is by definition the best available at the time.

4.) The Placement of this malodor regulation in the Pennsylvania SIP is not appropriate according to the Pennsylvania Statute.

We respectfully bring to the Board's attention the fact that the subject regulatory section is included in the Pennsylvania SIP for attainment of the standards of the Clean Air Act. To our knowledge Pennsylvania is the only state with its' malodor regulation in the SIP. There is no Federal rule or Clean Air Act requirement that indicates this is appropriate.

As a SIP rule the malodor regulation is subject to Federal enforcement, a potential complication to both the Department and to the state's industrial citizens in solving what should be strictly local and state level problems.

The malodor regulation does not fit the pattern of a SIP regulation as stipulated in the Pennsylvania Statute, Chapter 23, §4004.2 - Permissible actions [of the board]. The malodor regulation does not, relative to the Statute at §4004.2(b): (1) help achieve or maintain ambient air quality standards; (2) satisfy related Clean Air Act Requirements as they specifically relate to the Commonwealth; (3) prevent an assessment or imposition of Clean Air Act sanctions; or (4) comply with a final decree of a Federal court. In absence of meeting these criteria, the malodor regulation is more stringent than what is required by the Clean Air Act or the Pennsylvania Statute.

~~SECRET~~

Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal-2

97 NOV -7 PM 2:20  
REVENUE  
INTEROFFICE MEMORANDUM

Date: 29-Oct-1997 11:19pm EST  
From: Myron and Nancy Arnowitz and N  
mann@igc.apc.org@PMDF@DER003  
Dept:  
Tel No:

TO: Regcomments ( Regcomments@a1.dep.state.pa.us@PMDF@  
CC: mann ( mann@igc.apc.org@PMDF@DER003 )

Subject: Reg. Basics Int. #3 malodors

Comments on Regulatory Basics Initiative #3 (malodors)  
Comments sent by electronic mail

October 29, 1997

To the Environmental Quality Board:

I am writing on behalf of Clean Water Action's 80,000 members in Pennsylvania to oppose the proposed malodor regulation change entitled, "Regulatory Basics Initiative #3 - maldodors."

Odor problems not only represent a nuisance to residents, but often point to bigger and more dangerous environmental and public health problems associated with the substances being emitted. The community complaint process is therefore one of the best ways the DEP can keep its "nose to the ground" on enforcing a wide range of important environmental laws that protect all of us. By refusing to respond to complaints, the DEP will be reducing its ability to properly take enforcement actions.

There are a number of areas in which we believe that the proposed regulations fall far short of what is needed to meet the problem of malodor violations by companies in Pennsylvania.

1) The proposed definition for an "odor investigation" must be more specific in a number of areas. Investigations should be immediate, unannounced, and focussed on determining the source of the odor and what changes need to be made to eliminate odors from reaching the surrounding community. Under this new definition, we understand that the DEP could conduct arranged inspections several weeks after the community complaint. This is unacceptable to the large number of Pennsylvania residents currently living near the many facilities with odor problems. Immediate and unannounced inspections are crucial to the investigation solving odor problems. In addition, the frequency of the odors should not be relevant to the decision to investigate. The citizen complaint should be sufficient cause for an investigation to begin.

2) Five years is much too long a period of time for companies to essentially be exempt from any complaints of malodors. Best Available

Technology (BAT) changes much more frequently, and the five year waiting period does not take this into account. A change in BAT should mean an immediate benefit to the surrounding community.

3) The BAT standard as written is one which will allow many facilities to emit odors without any recourse by citizens. Better control technology standards, such as the Maximum Achievable Control Technology (MACT) could be used. Also, the proposed regulations make no mention of the proper operation of the control technology that is installed. Often, odor problems result from malfunctioning equipment and/or poorly trained operators. Under this proposal, the DEP could exempt these companies from investigation simply because they installed BAT.

4) Clean Water Action opposes expanding the list of facilities exempted from odor regulations as an unacceptable burden on the surrounding community. The DEP should especially not set up a system for additional facilities to get on the "exempted" list, as such a process will likely be undertaken without the knowledge of the affected citizens. In addition, we oppose extending the exemption for facilities producing agricultural commodities to include all such facilities, not just ones where the commodities are made on farm premises. This could result in far greater number of Pennsylvanians being adversely affected by malodor problems.

As the DEP notes in its background comments to the proposal, odor complaints are a substantial part of total community complaints to the DEP (30%). The new regulations appear to be designed to allow the DEP to ignore these complaints rather than acting on them. If staff resources are an issue, this should be taken up either internally within the DEP, or with the State Legislature. Clean Water Action supports the full funding of staff needed to respond to community complaints concerning malodors.

Again, Clean Water Action opposes this proposal as a weakening of the existing malodor regulations, and urges the EQB to reject this proposed change.

Sincerely,

Myron Arnowitt  
Western Pennsylvania Director  
Clean Water Action  
607 Penn Ave., #212  
Pittsburgh, PA 15222  
(412) 765-3053

Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal-2

97 NOV -7 PM 2:20  
REVIEW COPY  
INTEROFFICE MEMORANDUM

Date: 29-Oct-1997 05:20pm EST  
From: Travis, Lynn  
LynnTravis@pennzoil.com@PMDF@  
Dept:  
Tel No:

TO: 'Regcomments@a1.dep.state.pa.us' ( Regcomments@a1.dep.state.pa.us@PMDF@

Subject: Malodors - Pennzoil Company 2

This is the plain text of the Word document I just sent. The text in both is the same.

Please contact me if you have any problems reading the document or if you have any questions.

Lynn Travis  
(713) 546-6870

Pennzoil Company  
P. O. Box 2967 1 Houston, Texas 77252-2967 1 (713) 546-8516 1 fax (713) 546-4355  
Internet Address: SaroshManekshaw@pennzoil.com

Sarosh J. H. Manekshaw  
Director  
Environmental, Safety and Health Affairs

October 29, 1997

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

SUBJECT: Proposed Rules - Regulatory Basics Initiative #3 - Malodors  
PA Code Chapters 121 and 123  
Pennsylvania Bulletin, August 23, 1997, pages 4340-4343.

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 industry. In the Commonwealth of



Pennsylvania, Pennzoil operates a petroleum refinery, a specialty petroleum products plant (in partnership), and several packaging plants, terminals, and distribution centers that have the potential to be affected by the proposed malodor regulation. Pennzoil's principle concern with the proposal is that it would require the Department to initiate an odor investigation on the basis of a single complaint and permit the Department to impose recurring stringent Best Available Technology (BAT) control on sources.

#### General

Pennzoil suggests that the proposed malodor regulation target chronic nuisance odors rather than infrequent operations that are part of historic documented standard operating procedures at a facility. The proposal already exempts many potential sources of significant malodors, which implies that DEP understands that some odors are created as part of standard operations.

To this list, Pennzoil would add odors which are infrequently generated, but have been generated historically under normal operating conditions. For example, a facility might schedule and conduct a specific process every few years that has a potential to create odors that do not present a health hazard. The facility could not use this exemption to cover odors created by new processes. The DEP could also require that it be notified in advance of the generation of such odors. The notification might include the date the odors are expected to be created and the duration of such odors. This notification would allow the DEP to respond to requests for information from the public concerning the odors from the particular operation. This type of notification would exempt these specific operations at the facility from being regulated under the malodor regulations.

#### Chapter 121. General Provisions

##### Sc121.1 Definitions

In the proposal, malodor is defined as "an objectionable odor". This definition is subjective and vague. It is difficult to determine whether an odor is objectionable, and what is considered a malodor to some people may be completely acceptable to others. Although Pennzoil understands the difficulty in defining an "objectionable" or malodor, additional guidance must be provided prior to implementation of the regulation.

The proposed definition for malodor addresses an odor that is "first identified by a member of the public". It is unreasonable for the DEP to be required to conduct an investigation on the basis of one single person's determination that an odor is "objectionable". Pennzoil suggests that the malodor determination be based on perception by a significant percent of the affected community rather than "a" member of the public.

Within the definition of "malodor", is the statement that an odor will be "subsequently documented by the Department". Pennzoil suggests that this documentation consist of first hand observation and evaluation by DEP staff together with the complainants. It should not consist solely of unsubstantiated observations or complaints made by the general public.

## Chapter 123. Standards for Contaminants Odor Emissions

### Sc123.31 Limitations

Section 123.31 (c) states that "...if a malodor exists, the Department may require a new determination of and implementation of best available technology for odors." This is overly broad and permits the DEP to arbitrarily require excessive controls on sources of poorly defined "objectionable odors". Additionally, requiring best available technology is not the same as suggesting a reasonable effort to reduce odors where feasible; establishing BAT has very specific and prescriptive requirements.

Pennzoil strongly objects to DEP requiring BAT for nuisance odors.

Pennzoil requests that all references to BAT be removed from 123.31.

### Regulatory Basics Concern

In 1995, Pennzoil participated in the Regulatory Basics Initiative when the Department of Environmental Protection solicited comments from the regulated community on environmental regulations which are more stringent than Federal rules. The proposed malodor regulation is not specifically required by any Federal regulation; it is therefore more stringent than Federal rules and contrary to the intent of the PA Regulatory Basics Initiative. Ironically, the regulation is proposed under the heading of Regulatory Basics Initiative #3.

Pennzoil strongly suggests that DEP comply with the intent of their regulatory basics initiative and eliminate sections of the proposal that are not specifically required by federal regulations.

### Summary

Pennzoil appreciates the opportunity to participate in this rulemaking process. Our suggested changes to the proposed malodor regulation include:

- \* Target chronic rather than infrequent operations, and create a program to allow facilities to notify DEP of infrequent but planned activities that have the potential to create odors.
- \* Provide additional guidance for defining "objectionable" odors.
- \* Require perception of a malodor by a significant percent of the affected community rather than "a" member of the public.
- \* Base "subsequent documentation" of malodors on first hand observation and evaluation by DEP staff together with the complainants, rather than unsubstantiated observations or complaints made by the general public.
- \* Remove all references to BAT from 123.31.

Please feel free to contact me at (713) 546-8516 if you have any questions. We hope that our comments will assist the DEP in creating practical and effective malodor regulations.



Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal-2

97 NOV -7 PM 2:22  
REVIEW COMMISSION

**I N T E R O F F I C E M E M O R A N D U M**

Date: 30-Oct-1997 07:16am EST  
From: WmSAmbler  
WmSAmbler@aol.com@PMDF@DER003  
Dept:  
Tel No:

TO: Regcomments ( Regcomments@a1.dep.state.pa.us@PMDF@ )  
CC: WmSAmbler ( WmSAmbler@aol.com@PMDF@DER003 )

Subject: COMMENT SUMMARY: Regulatory Basics Initiative #3 (Malodors)

**Environmental Quality Board:**

Regarding the proposed amendments to 25 PA. CODE CHS. 121 and 123 please consider our comments and concerns as revisions are made prior to the final rulemaking.

Is the 5-year review period for BAT the appropriate time frame?

Our concerns that do not appear to be addressed in the proposal are as follows:

1. Who is responsible for defining BAT ?  
2. If BAT can be determined (without an endless debate) and is installed, but malodors continue, the entity causing the problem is free to operate unchallenged for five years. That is too long! In the state of Pennsylvania, if we buy a brand new car and for some reason the muffler goes bad or falls off, we are not permitted to drive it for five years before fixing it. We would welcome an explanation of why the five year period was proposed to follow the installation of BAT? Instead, if public health and quality of life (as mentioned on the Regulatory Analysis Form) are truly being considered, perhaps a short time frame should apply to the installation of BAT.

3. The terminology "use of best available technology" is not sufficient. If odors persist due to improper operations and maintenance of BAT, what recourse does the public have?

4. If BAT can be determined and is installed, but new BAT is developed within the five year period (or the appropriate time frame (if any) that is finally determined), can the entity be forced to upgrade?

In documenting whether an odor is objectionable, how should the frequency of occurrence and the extent of public objection be evaluated?

After reviewing both the proposed regulation in the Pennsylvania Bulletin and the Regulatory Analysis Form, we are not convinced that the expected benefits, as described in (13) of the Form, are well balanced particularly if no changes in the Department's recordkeeping, reporting, or other paperwork requirements are anticipated (see (28) on the Form). The proposed regulation is supposed to reduce the burden that the current regulation places on citizens during the documentation, investigation, and resolution of malodor complaints. In our experience the greatest burden to citizens is caused by DEP dragging its feet on the enforcement of current regulations. Industry is supposed to benefit because the regulation clarifies the extent of the remedial action that they must take to resolve a malodor violation. We believe that the proposed regulation simply allows a facility to operate for a long time with no obligation to control residual odors, even if they are

frequent, obnoxious, and toxic. Who is going to determine how much of the residual odor can be attributed to the improper operation and maintenance of the best available technology and how much can be attributed to technology?

Recordkeeping of the facility in conjunction with the BAT is not addressed in the proposed regulation, but should be.

Malodors can indicate improper operation of an air pollution source; therefore, the goal should not necessarily be to reduce paperwork related to complaints and odor investigations, but to organize and periodically analyze it (in conjunction with the facility's current operational plan) for patterns that will help identify operational problems and/or unwarranted complaints.

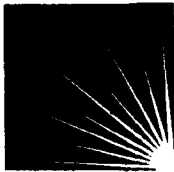
We recommend that the Department document every complaint, plus the extent of and outcome of each investigation, even if the Department doesn't document an objectionable odor problem that requires further follow-up with the facility owner.

This should be done even during any exemption period that may be granted to industry as a result of the proposed regulation --- for the sake of the Department's integrity and to build public confidence in the Department's efforts. Make the documentation readily available to the public upon request. List the contact person and phone number for complaint/investigation information on the internet and notify local public officials.

The extent of public objection should be evaluated with consideration given to the amount of information that is made readily available and the lack of reliable information that they are given at public meetings. The Department should consider initiating written surveys to determine the scope of odor problems. Also, stronger efforts to make known exactly what the Department is doing about a problem, how long it will take them to complete their procedures, and what is expected of the Public, are needed.

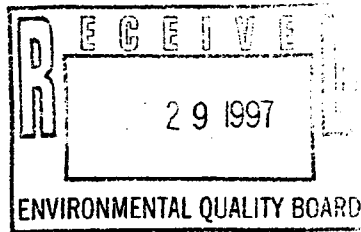
Respectfully submitted,  
William & Nancy Ambler  
1427 Jerry Lane  
Manheim, PA 17545

Clean Air Council



97 NOV -7 PM 2:28

RECEIVED  
REVIEW OF AIRSION



Original: 1877

135 South 19th Street  
Suite 300  
Philadelphia, PA 19103  
215-567-4004  
Fax 215-567-5791  
E-Mail office@cleanair.org

October 27, 1997

Copies: Tyrrell  
Sandusky  
Legal-2

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

The Pennsylvania environmental community is extremely concerned about the implementation of the Department of Environmental Protection's recently proposed malodor regulations. The environmental community believes that the Department of Environmental Protection's efforts to streamline complaint and investigative procedures will seriously impair the department's ability to protect public and environmental health.

Nearly a third of all complaints received by DEP regional air program offices relate to malodors. Due to the sheer volume and the fact that the presence of malodors often indicates the existence of more dangerous environmental hazards, the Pennsylvania environmental community believes that every single odor complaint deserves, at the very least, peremptory review.

Furthermore, limiting the issuance of notices of violation for malodor to only those instances that have been reported a certain number of times, or to those that elicit the most public objection may severely jeopardize the public health and will discourage residents from reporting problems in their neighborhoods. This will also lead to further erosion of the public's trust that DEP is looking after their interest.

In concept, it is appropriate for the DEP to prioritize its enforcement activities with respect to the severity and frequency of the malodor violation. However, the definitions contained in the proposed regulations have the potential effect of impeding the malodor investigative process. Specifically, the Pennsylvania environmental community believes that the proposed regulatory definition regarding the nature and quality of evidence required to support an "odor investigation" is capable of broad interpretation. Consequently, the Pennsylvania environmental community is concerned that a malodor investigation may become mired down in bureaucratic ambiguity.

Finally, the undersigned environmentalists are adamantly opposed to DEP's proposal to create a five year exemption for facilities producing residual odors simply because they are employing best available control technology (BACT). Pollution control technology evolves fairly rapidly. Therefore, the five year exemption will effectively freeze the responsibilities of a malodor emitter. Despite the fact that its pollution control technology may become obsolete and ineffective, a facility would be granted a five year reprieve from responsibility.

Sincerely,

Joseph Otis Minott  
Executive Director,  
Clean Air Council

John Hoekstra  
Green Valleys Association

Sue McNamara  
Delaware Valley Bike Coalition

Carol Fanelli  
Pennsylvania Environmental Network

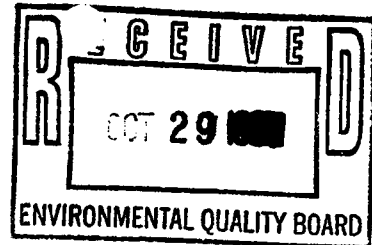
Clean Air Council







RECEIVED  
Clean Air Council  
3700 Vartan Way  
Harrisburg, PA 17110  
97 NOV 17 11:28



135 South 19th Street  
Suite 300  
Philadelphia, PA 19103  
215-567-4004  
Fax 215-567-5791  
E-Mail office@cleanair.org

**THE ENVIRONMENTAL QUALITY BOARD  
DEPARTMENT OF ENVIRONMENTAL PROTECTION PROPOSED RULEMAKING  
MALODOR REGULATION: REVISIONS TO 25 PA CODE 121.1 AND 25 PA CODE 123.**

**WRITTEN COMMENTS OF THE CLEAN AIR COUNCIL**

Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal-2

October 29, 1997

The Clean Air Council now submits written comments as a supplement to oral testimony delivered on September 23, 1997 on the Department of Environmental Protection's (DEP) proposed malodor regulations. The testimony submitted that day is hereby incorporated by reference to these comments and are attached hereto for purposes of the Board's convenience.

In the opinion of the Council, the proposed revisions to the regulations governing malodors are not in the public interest. The effect of the revisions is such that more and more residents of the Commonwealth will be left without adequate recourse to prevent the outrageous perversion of their air. The Department will be greatly hindered in its ability to deliver relief to citizens exposed to malodors.

The §121.1 definition of Malodor has been changed in a manner that is not entirely helpful. Initially, the provision that a single member of the public be sufficient for DEP's taking action is promising, since it is sometimes the case that facilities causing objectionable odors are located in areas of less dense population, and prevailing air flow may drive the odor in the direction of a single resident in close proximity. The requirement of an odor investigation would seem to add an additional layer of bureaucratic procedure and delay, however, with disputes about the adequacy of the complaint(s) being replaced by arguments on the adequacy of the investigation. Therefore, it would appear this definition and its consequences to the process of establishing a malodor violation run contrary to the intentions of the regulatory basics initiative, the very impetus for the introduction of the proposed regulation.

In addition, removal of the words "annoyance or discomfort to the public" and replacement with "objectionable" alters the degree to which a member of the public must be affected before a malodor may be found and does so in an ill-defined way.

An alternate definition of malodor for §121.1 could simply read: "an odor which causes annoyance or discomfort to a member of the public the presence of which is confirmed by the Department." Under this drafting, the definition of an odor investigation is unnecessary and would be deleted.





The proposed definition of "Odor investigation" describes an unduly burdensome process. Reference to the "frequency" of the malodor and "odor logs" implies a systematic monitoring of the offending facility. Unless 123.31(b) is removed, the regulation requires simply that no malodorous emission be detectable beyond the property boundaries of the facility. A "plain meaning" construction of this language compels the conclusion that a single, confirmed complaint of such a malodorous emission constitutes a violation of the regulation, to the extent that the event is not excepted by 123.31(c). Furthermore, the Department has not proposed changes to 123.31(b). Therefore, the systematic monitoring envisioned by the Department is simply unnecessary under even the new regulation, and would serve to create confusion amongst the citizenry, the regulated community, and ultimately, the courts.

In recent practice, the Department has used its discretion in issuing notices of violation and assessing penalties and has performed investigations of a facility to guide that discretion and to ensure the identity of the source of the malodor. What the new regulation proposes, however, is to restrict that discretion so that a notice of violation may not even be issued without a complex investigation as opposed to simple confirmation of the source of the malodor.

Section 123.31(c) is entirely unacceptable. It is a clear giveaway to industrial and concentrated animal feedlot operations. Utilization of best available technology is a major weakening of the regulation, a long slide down from simple prohibition of the escape of objectionable odors. Best available technology is not likely to be sufficiently stringent to avoid adverse effects upon the public since cost plays a substantial role in the determination. In direct response to the Department's third specific inquiry accompanying the proposed rulemaking, the five-year review period for BAT is clearly inappropriate. Should the Department insist on retaining this section, it must commit to revisit the BAT determination on an annual basis to provide relatively quick relief to citizens suffering from malodors.

The exemptions to the regulations in §123.31(d) are all unwarranted. This is an outright evisceration of the malodor regulation. With industrial sources able to meet potentially ineffective BAT requirements and escape further Department enforcement for five or more years at a time, and all the other possible sources exempted in §123.31(d)(2) - (5), very little seems to still be bound by a malodor regulation which, when it does apply, will be less useful to citizens than the current regulation. There is no reason why these sources should be exempted. If they are causing odors which deny the peaceful use and enjoyment of property to nearby residents and may threaten their health, then those residents need to be protected, regardless of the size of the source.

As to §123.31(d)(5) and (e), we are opposed to this concept. It is not logical to exempt "sources of minor significance." If a person may bring a complaint which could result in the finding of a malodor violation against a large source, why deny the same outcome when the source is minor, and the threat and discomfort that it causes will not necessarily be any less.



**Clean Air Council: Summary of Malodor Comments**  
October 29, 1997

135 South 19th Street  
Suite 300  
Philadelphia, PA 19103  
215-567-4004  
Fax 215-567-5791  
E-Mail office@cleanair.org

In the opinion of the Council, the proposed revisions to the regulations governing malodors are not in the public interest. The effect of the revisions is such that more and more residents of the Commonwealth will be left without adequate resource to prevent the outrageous perversion of their air. The Department will be greatly hindered in its ability to deliver relief to citizens exposed to malodors.

The following points are excerpts from the Council's comments of October 29, 1997, and, as they are limited to one page, are entitled to be included in the Board's agenda packet for the appropriate meeting as described in the Pennsylvania Bulletin of August 23, 1997.

--The requirement of an odor investigation seems to add an additional layer of bureaucracy. Reference to the "frequency" of the malodor and "odor logs" implies a systematic monitoring of the offending facility. Nevertheless, unless 123.31(b) is removed, the regulation will still require simply that no malodorous emission be detectable beyond the property boundaries of the facility. A "plain meaning" construction of this language compels the conclusion that a single, confirmed complaint of such a malodorous emission constitutes a violation of the regulation, to the extent that the event is not excepted by 123.31(c). This result does not comport well with the odor investigation requirement.

--In addition, removal of the words "annoyance or discomfort to the public" and replacement with "objectionable" alters the degree to which a member of the public must be affected before a malodor may be found and does so in an ill-defined way.

--The new regulation proposes to restrict DEP's discretion so that a notice of violation may not even be issued without a complex investigation as opposed to simple confirmation of the source of the malodor.

--The exemptions to the regulations in §123.31(d) are all unwarranted. This is an outright evisceration of the malodor regulation. With industrial sources able to meet potentially ineffective BAT requirements and escape further Department enforcement for five or more years at a time, and all the other possible sources exempted in §123.31(d)(2) - (5), very little seems to still be bound by a malodor regulation which, when it does apply, will be less useful to citizens than the current regulation. There is no reason why these sources should be exempted. If they are causing odors which deny the peaceful use and enjoyment of property to nearby residents, then those residents need to be protected, regardless of the size of the source.

--As to §123.31(d)(5) and (e), we are opposed to this concept. It is not logical to exempt "sources of minor significance." If a person may bring a complaint which could result in the finding of a malodor violation against a large source, why deny the same outcome when the source is minor, and likely to be of less social utility to the community?



*Clean Air Council, p.3*  
*10/29/97*

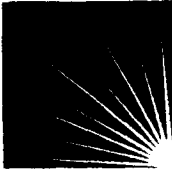
Citizens have a state constitutional right to clean air. Business does not have a corresponding right to pollute. Section 123.31(c) - (e) suggests the DEP appears to believe the opposite is true. The Clean Air Council recommends that the proposed rulemaking be withdrawn because it does not well serve the public nor does it fulfill the goals of the Regulatory Basics Initiative.

Respectfully submitted,



Michael D. Fiorentino, Esq.  
Staff Attorney, Clean Air Council  
3700 Vartan Way  
Harrisburg, PA 17110  
(717)-541-1955

Attachment



**DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ENVIRONMENTAL QUALITY BOARD  
REGULATORY BASICS INITIATIVE - MALODOR REGULATION  
SEPTEMBER 23, 1997**

Good afternoon. My name is Michael Fiorentino. I am a staff attorney with the Clean Air Council, a statewide membership-based nonprofit environmental advocacy and education organization. The Council uses public education, citizen-based advocacy, and government oversight to protect the rights of Pennsylvania residents to breathe clean air.

Odor regulations provide neighborhood residents with one of the few mechanisms that enables them to effectively battle polluters in order to safeguard their environment and their health. This is because malodors, often signaling the presence of some of the more dangerous environmental hazards to which people are exposed, are also more easily detected than most other types of pollution. The Council is extremely concerned with the Department's desire to weaken the current malodor regulations.

Malodors are often a serious environmental and public health threat throughout Pennsylvania. DEP claims that nearly a third of all complaints that its regional air program offices receive relate to malodors. This being the case, the Council finds the Department's attempts to streamline the complaint and investigation process to be inappropriate and confusing. The Council believes that each and every odor complaint deserves serious attention from the Department. Limiting the issuance of notices of violation for malodor to only those that have been reported a certain number of times or to those that elicit the most public objection, severely jeopardizes the public health and will discourage residents from reporting problems in their neighborhoods. All malodors, whether they are being reported for the first time or the fiftieth time and whether one person has complained or fifty, deserve serious attention from Department investigators. There is probably no other kind of enforcement action taken by the Department that better reflects its



respect for the members of the community than how it handles odor complaints.

Even a single documented complaint should be sufficient grounds for the issuance of a notice of violation. Polluting entities are responsible for knowing that the law prohibits malodor migration.

Furthermore, requiring an inspector to undertake a complex investigation of the frequency of odors from a source and acquiring affidavits and odor logs has the potential to further burden the entire process, thereby defeating the Department's objectives. An investigator needs to be able to issue a notice of violation to a facility when he or she detects a malodor while conducting an inspection in response to a complaint. If the Department is suggesting, however, that the investigator must first undertake the complex investigation process before being able to document an official malodor, then the process will become mired down in bureaucracy and will fail to serve the needs of community residents. Prolonging the entire process will also subject the affected community to further harm as the facility continues to emit the malodor. At a time when the DEP's ability to enforce the full range of air quality laws and regulations is stretched thin, it is highly unlikely the resources will be available to make these proposals work with the efficacy of its regulatory predecessor.

Regarding malodors that result from the emissions of volatile organic compounds, the Council encourages the Department to retain the current minimum requirements that facilities must meet. VOCs are some of the most pervasive and dangerous air pollutants in Pennsylvania. Maintaining a strict limit on malodors from the incineration of materials which result in the emission of VOCs is essential to protect the public health.

Finally, the Council would like to address the Department's proposal to exempt facilities from having to reduce residual odors for a five year period for those that control malodorous air contaminants through the use of best available control technology (BACT). Pollution control technology evolves at such a rapid rate that what is considered BACT will change from year to year. Exempting a facility from having to reduce residual odors for five years despite the fact that the control technology it uses will most likely become outdated is an endorsement by the Department for facilities to emit malodors that threaten the public health. The Council believes that a more

stringent and periodic review of all facilities that emit malodorous air contaminants is more environmentally friendly and is a more effective means of protecting the public health.

Thank you for the opportunity to speak before you today. The Council reserves its right to submit further comments in writing.



Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal-2  
Notebooks-2

97 NOV -7 PM 3:28  
REVIEW OF CHILDREN

Oct 25, 1997

To Whom It may Concern,

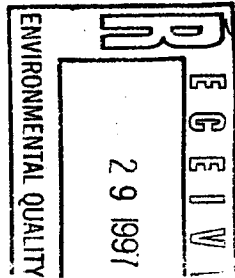
Please do not change  
25 Pennsylvania Code Chapter  
121 and 123

To day we need more regulation  
over business not less. Our  
health & welfare is more  
important. Noise, pollution,  
destroying our water. Where will  
it end? Our children of tomorrow  
will suffer greatly.

Jeroy & Blanche Miller

44 Montello Rd

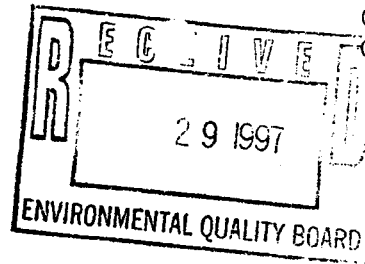
Sinking Spring, Pa  
19608







Environmental Quality Board  
P.O. Box 8477  
Harrisburg PA 17105-8477  
NOV -7 PM 3:20



Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal-2  
11 Form Letter

Dear Sirs,

I am writing to formally oppose revisions to the odor regulations(25 Pa. Code~123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners". The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)". How will BAT for odors be defined? Will economic considerations be a feature? What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process it abolishes it giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assesment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter township in Berks county. This incident resulted in reports of eye and nose irritations (including nose bleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.

The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation. For example odors from a faulty septic system or an illegal drug lab. What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates

complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

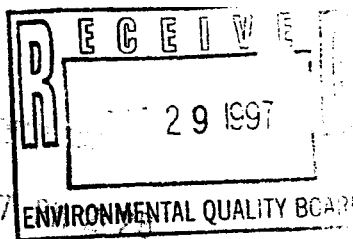
Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government give away to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

Sincerely,

*Attorney + Mrs Gibson Smith*  
*Gibson Smith*

Environmental Quality Board  
P.O. Box 8477  
Harrisburg PA 17105-8477



Dear Sirs,

I am writing to formally oppose revisions to the odor regulations (25 Pa. Code-123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners." The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)".

How will BAT for odors be defined? Will economic considerations be a feature?

What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process it abolishes it giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five-year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assessment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter Township in Berks County. This incident resulted in reports of eye and nose irritations (including nosebleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.

The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation (for example, odors from a faulty septic system or an illegal drug lab). What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

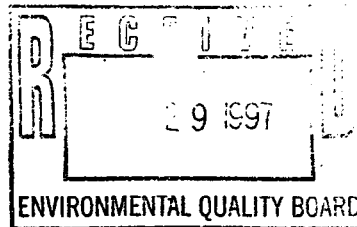
In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government giveaway to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

Sincerely,

Jennifer L. Wilt



Environmental Quality Board  
P.O. Box 8477  
Harrisburg PA 17105-8477



Dear Sirs,

I am writing to formally oppose revisions to the odor regulations (25 Pa. Code-123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners." The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)".

How will BAT for odors be defined? Will economic considerations be a feature?

What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process it abolishes it giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five-year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assessment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter Township in Berks County. This incident resulted in reports of eye and nose irritations (including nosebleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.

The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation (for example, odors from a faulty septic system or an illegal drug lab). What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government giveaway to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

Sincerely,

Patrick & Shirlee McGuire

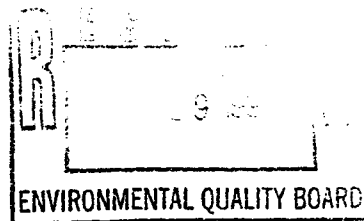
Rd 1 Box 7

Broque, Pa. 17309

717-927-6931



Environmental Quality Board  
P.O. Box 8477  
Harrisburg PA 17105-8477



Dear Sirs,

I am writing to formally oppose revisions to the odor regulations (25 Pa. Code 123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners." The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)".

How will BAT for odors be defined? Will economic considerations be a feature?

What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process it abolishes it giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five-year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assessment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter Township in Berks County. This incident resulted in reports of eye and nose irritations (including nosebleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.

The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation (for example, odors from a faulty septic system or an illegal drug lab). What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government giveaway to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

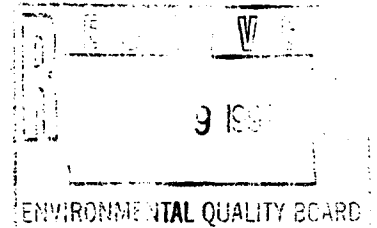
Sincerely,

*Rose Lottor*





Environmental Quality Board  
P.O. Box 8477  
Harrisburg PA 17105-8477



Dear Sirs,

I am writing to formally <sup>07 NOV 2000</sup> oppose revisions to the odor regulations (25 Pa. Code-123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners." The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)".

How will BAT for odors be defined? Will economic considerations be a feature?

What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process it abolishes it giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five-year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assessment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter Township in Berks County. This incident resulted in reports of eye and nose irritations (including nosebleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.

The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation (for example, odors from a faulty septic system or an illegal drug lab). What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

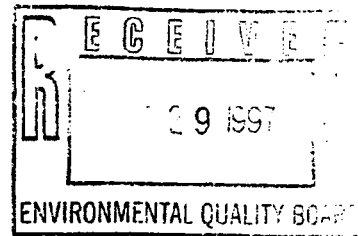
Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government giveaway to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

Sincerely,

*Daniel S. Eaton*

Environmental Quality Board  
P.O. Box 8477  
Harrisburg PA 17105-8477



Dear Sirs,

I am writing to formally oppose revisions to the odor regulations (25 Pa. Code-123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners." The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)".

How will BAT for odors be defined? Will economic considerations be a feature?

What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process it abolishes it giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five-year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assessment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter Township in Berks County. This incident resulted in reports of eye and nose irritations (including nosebleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.

The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation (for example, odors from a faulty septic system or an illegal drug lab). What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

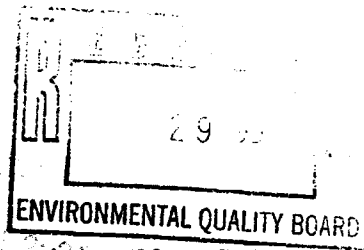
Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government giveaway to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

Sincerely,

*Jos R Eaton*

Environmental Quality Board  
P.O. Box 8477  
Harrisburg PA 17105-8477



Dear Sirs,

I am writing to formally oppose revisions to the odor regulations (25 Pa. Code 123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners." The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)".

How will BAT for odors be defined? Will economic considerations be a feature?

What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process it abolishes it giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five-year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assessment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter Township in Berks County. This incident resulted in reports of eye and nose irritations (including nosebleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.

The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation (for example, odors from a faulty septic system or an illegal drug lab). What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

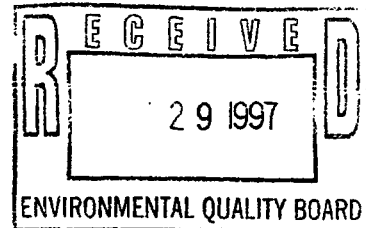
Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government giveaway to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

Sincerely,  
Handwritten signature of James Howard in cursive.



Environmental Quality Board  
P.O. Box 8477  
Harrisburg PA 17105-8477



Dear Sirs,

I am writing to formally oppose revisions to the odor regulations (25 Pa. Code ~123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners." The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)".

How will BAT for odors be defined? Will economic considerations be a feature?

What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process it abolishes it giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five-year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assessment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter Township in Berks County. This incident resulted in reports of eye and nose irritations (including nosebleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.

The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation (for example, odors from a faulty septic system or an illegal drug lab). What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

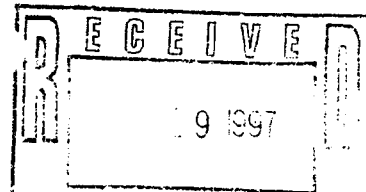
In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government giveaway to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

Sincerely,

*Lena R. Hogan & Family*



Environmental Quality Board  
P.O. Box 8477  
Harrisburg PA 17105-8477



Dear Sirs,

I am writing to formally oppose revisions to the odor regulations (25 Pa. Code 123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners." The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)".

How will BAT for odors be defined? Will economic considerations be a feature?

What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process it abolishes it giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five-year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assessment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter Township in Berks County. This incident resulted in reports of eye and nose irritations (including nosebleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.

The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation (for example, odors from a faulty septic system or an illegal drug lab). What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

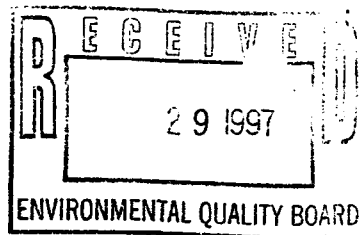
In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government giveaway to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

Sincerely,

*Jay B. Bacon*  
R.D. #1, Box 95  
Brogue, Pa 17309



Environmental Quality Board  
P.O. Box 8477  
Harrisburg PA 17105-8477



Dear Sirs,

I am writing to formally oppose revisions to the odor regulations(25 Pa. Code~123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners." The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)".

How will BAT for odors be defined? Will economic considerations be a feature?

What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process it abolishes it giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five-year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assessment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter Township in Berks County. This incident resulted in reports of eye and nose irritations (including nosebleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.

The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation (for example, odors from a faulty septic system or an illegal drug lab). What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

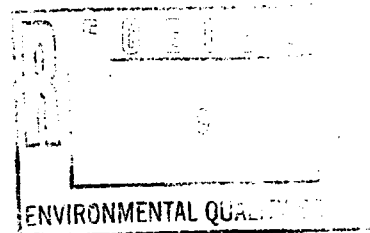
Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government giveaway to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

Sincerely,

A handwritten signature in cursive script that reads "Linda J. Bacon".

Environmental Quality Board  
P.O. Box 8477  
Harrisburg PA 17105-8477



Dear Sirs,

I am writing to formally oppose revisions to the odor regulations (25 Pa. Code 123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners." The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)".

How will BAT for odors be defined? Will economic considerations be a feature?

What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process it abolishes it giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five-year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assessment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter Township in Berks County. This incident resulted in reports of eye and nose irritations (including nosebleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.

The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation (for example, odors from a faulty septic system or an illegal drug lab). What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government giveaway to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

Sincerely,

*Mr. & Mrs. Stanley Robinson*  
R.D. 1 Box 560  
Berque, Pa. 17309



L.E.A.D.

LOCAL ENVIRONMENTAL AWARENESS DEVELOPMENT GROUP

of

Berks County

97 NOV -7

PM 2:2

NOTICE  
DEPARTMENT OF  
ENVIRONMENTAL PROTECTION

October 25, 1997

Original: 1877

Copies: Tyrrell

Sandusky

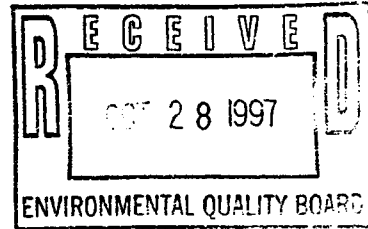
Legal-2

Environmental Quality Board

P.O. Box 8477

Harrisburg, PA 17105-8477

8 Form Letters



Dear Sirs,

Odors are a serious toxic health problem be they residual or malodor. They can cause impaired respiration, headaches, nausea and vomiting. Odors can lead to community deterioration, and discourage capital investment. We oppose revisions to the odor regulations (25 Pa Code-123.31) which are not protecting communities.

We live in a densely populated, heavy industrialized valley. We are subject to frequent air inversions and forced to breath malodor and residual odors almost every day. Our nose and throat burn, some of us become nauseous, or experience headaches. Our quality of life is violated when we are forced indoors by strong odors emitted by a lead smelter facility. In effect, this revision will allow the Department to grant a (5) year license for a continuing violation of the Air Pollution Control Act while at the same time tell people who have the headaches and sore throats to deal with it. Well let me tell you folks we have been dealing with stench and DEP for years, but to no avail. It's become down right aggravating.

- \* Our complaints were/are not taken seriously by the DEP
- \* Response time was/is slow or non-existent
- \* NOV's were/are rarely issued

This may seem overly critical but when people's lives are at stake and odor problems continue to exist it becomes necessary to be critical. The frightening thing about this proposal is it can only make our odor problem worse. It will not protect the health and safety of our families.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor". This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is is an attempt to allow the polluter to avoid responsibility.

P. O. Box 13033

Reading, PA 19612-3033

Page 2

Revisions to the odor regulations (25 Pa. Code~123.1)

Under the proposed changes a facility would be immune from liability for odor emissions for (5) years if the facility has installed "best available technologies" (BAT). Only after 5 years would the facility be required to undertake additional measures to stop the odors. What this proposal is saying is its OK for the community to suffer from pollution while endless controversy and litigation conclude what is the "Best Available Technology". And for those of us who feel the residual odors from the BAT for odors is worse than the original malodor..... notify DEP in (5) years.

In the Summary of Regulatory Revisions it is stated that subsection (c) of Section 123.31 will "create **certainty** for both the public and facility operators concerning the extent of responsibility for emissions of malodorous air contaminants". ***This revision does not "create certainty for both the public and facility operators", but it does create certainty environmental air polluters will avoid liability for odor emissions. Unfortunately, the only certainty created for the public is the UNCERTAINTY of how residual odors may effect them. The way to create true certainty for both the facility owner and the public is for the Department to Enforce The Law. Make it clear that NOV's and/or penalties will be issued when the law is violated. DEP won't have to get into issuing BAT for Odors Determinations (which in many cases is not necessarily the best technology but is the CHEAPEST).***

Oh, it should be noted that nowhere in the proposal do we see "residual odor" defined. How does it differ from the original malodor? Does it differ in Detectability? Intensity? Characteristics? Frequency? Duration? Hedonics?

In conclusion, we ask you to do what is right for our families and communities and reject these proposed revisions to the odor regulations.

Sincerely,

*Sena and Robert Shomo*  
*2901 Mannerdun Rd.*  
*Temple, Pa. 19560-9711*

L.E.A.D.

LOCAL ENVIRONMENTAL AWARENESS DEVELOPMENT GROUP

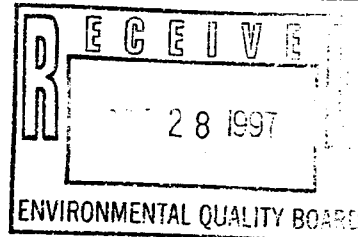
of  
Berks County

97 NOV 7 11 00 AM '97

REVIEW COLLECTION

October 25, 1997

Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477



Dear Sirs,

Odors are a serious toxic health problem be they residual or malodor. They can cause impaired respiration, headaches, nausea and vomiting. Odors can lead to community deterioration, and discourage capital investment. We oppose revisions to the odor regulations (25 Pa Code-123.31) which are not protecting communities.

We live in a densely populated, heavy industrialized valley. We are subject to frequent air inversions and forced to breath malodor and residual odors almost every day. Our nose and throat burn, some of us become nauseous, or experience headaches. Our quality of life is violated when we are forced indoors by strong odors emitted by a lead smelter facility. In effect, this revision will allow the Department to grant a (5) year license for a continuing violation of the Air Pollution Control Act while at the same time tell people who have the headaches and sore throats to deal with it. Well let me tell you folks we have been dealing with stench and DEP for years, but to no avail. It's become down right aggravating.

- \* Our complaints were/are not taken seriously by the DEP
- \* Response time was/is slow or non-existent
- \* NOV's were/are rarely issued

This may seem overly critical but when people's lives are at stake and odor problems continue to exist it becomes necessary to be critical. The frightening thing about this proposal is it can only make our odor problem worse. It will not protect the health and safety of our families.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor". This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is is an attempt to allow the polluter to avoid responsibility.

P. O. Box 13033

Reading, PA 19612-3033

Page 2

Revisions to the odor regulations (25 Pa. Code~123.1)

Under the proposed changes a facility would be immune from liability for odor emissions for (5) years if the facility has installed "best available technologies" (BAT). Only after 5 years would the facility be required to undertake additional measures to stop the odors. What this proposal is saying is its OK for the community to suffer from pollution while endless controversy and litigation conclude what is the "Best Available Technology". And for those of us who feel the residual odors from the BAT for odors is worse than the original malodor..... notify DEP in (5) years.

In the Summary of Regulatory Revisions it is stated that subsection (c) of Section 123.31 will "create **certainty** for both the public and facility operators concerning the extent of responsibility for emissions of malodorous air contaminants". **This revision does not "create certainty for both the public and facility operators", but it does create certainty environmental air polluters will avoid liability for odor emissions. Unfortunately, the only certainty created for the public is the UNCERTAINTY of how residual odors may effect them. The way to create true certainty for both the facility owner and the public is for the Department to Enforce The Law. Make it clear that NOV's and/or penalties will be issued when the law is violated. DEP won't have to get into issuing BAT for Odors Determinations (which in many cases is not necessarily the best technology but is the CHEAPEST).**

Oh, it should be noted that nowhere in the proposal do we see "residual odor" defined. How does it differ from the original malodor? Does it differ in Detectability? Intensity? Characteristics? Frequency? Duration? Hedonics?

In conclusion, we ask you to do what is right for our families and communities and reject these proposed revisions to the odor regulations.

Sincerely,

*Melvin C. Gehris*  
2219 Herb RD.  
Temple PA 19560

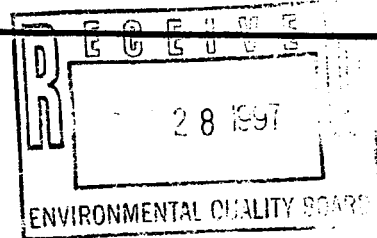
**L.E.A.D.**

**LOCAL ENVIRONMENTAL AWARENESS DEVELOPMENT GROUP**

of  
Berks County

October 25, 1997

Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477



Dear Sirs,

Odors are a serious toxic health problem be they residual or malodor. They can cause impaired respiration, headaches, nausea and vomiting. Odors can lead to community deterioration, and discourage capital investment. We oppose revisions to the odor regulations (25 Pa Code~123.31) which are not protecting communities.

We live in a densely populated, heavy industrialized valley. We are subject to frequent air inversions and forced to breath malodor and residual odors almost every day. Our nose and throat burn, some of us become nauseous, or experience headaches. Our quality of life is violated when we are forced indoors by strong odors emitted by a lead smelter facility. In effect, this revision will allow the Department to grant a (5) year license for a continuing violation of the Air Pollution Control Act while at the same time tell people who have the headaches and sore throats to deal with it. Well let me tell you folks we have been dealing with stench and DEP for years, but to no avail. It's become down right aggravating.

- \* Our complaints were/are not taken seriously by the DEP
- \* Response time was/is slow or non-existent
- \* NOV's were/are rarely issued

This may seem overly critical but when people's lives are at stake and odor problems continue to exist it becomes necessary to be critical. The frightening thing about this proposal is it can only make our odor problem worse. It will not protect the health and safety of our families.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor". This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is is an attempt to allow the polluter to avoid responsibility.

P. O. Box 13033  
Reading, PA 19612-3033



Page 2

Revisions to the odor regulations (25 Pa. Code~123.1)

Under the proposed changes a facility would be immune from liability for odor emissions for (5) years if the facility has installed "best available technologies" (BAT). Only after 5 years would the facility be required to undertake additional measures to stop the odors. What this proposal is saying is its OK for the community to suffer from pollution while endless controversy and litigation conclude what is the "Best Available Technology". And for those of us who feel the residual odors from the BAT for odors is worse than the original malodor..... notify DEP in (5) years.

In the Summary of Regulatory Revisions it is stated that subsection (c) of Section 123.31 will "create **certainty** for both the public and facility operators concerning the extent of responsibility for emissions of malodorous air contaminants". **This revision does not "create certainty for both the public and facility operators", but it does create certainty environmental air polluters will avoid liability for odor emissions. Unfortunately, the only certainty created for the public is the UNCERTAINTY of how residual odors may effect them. The way to create true certainty for both the facility owner and the public is for the Department to Enforce The Law. Make it clear that NOV's and/or penalties will be issued when the law is violated. DEP won't have to get into issuing BAT for Odors Determinations (which in many cases is not necessarily the best technology but is the CHEAPEST).**

Oh, it should be noted that nowhere in the proposal do we see "residual odor" defined. How does it differ from the original malodor? Does it differ in Detectability? Intensity? Characteristics? Frequency? Duration? Hedonics?

In conclusion, we ask you to do what is right for our families and communities and reject these proposed revisions to the odor regulations.

Sincerely,

*Grace Gehu*  
2219 Herb St.  
Temple, Pa 19560

L.E.A.D.

LOCAL ENVIRONMENTAL AWARENESS DEVELOPMENT GROUP

of  
Berks County

October 25, 1997

Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477

Dear Sirs,

Odors are a serious toxic health problem be they residual or malodor. They can cause impaired respiration, headaches, nausea and vomiting. Odors can lead to community deterioration, and discourage capital investment. We oppose revisions to the odor regulations (25 Pa Code-123.31) which are not protecting communities.

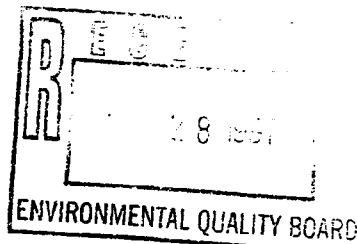
We live in a densely populated, heavy industrialized valley. We are subject to frequent air inversions and forced to breath malodor and residual odors almost every day. Our nose and throat burn, some of us become nauseous, or experience headaches. Our quality of life is violated when we are forced indoors by strong odors emitted by a lead smelter facility. In effect, this revision will allow the Department to grant a (5) year license for a continuing violation of the Air Pollution Control Act while at the same time tell people who have the headaches and sore throats to deal with it. Well let me tell you folks we have been dealing with stench and DEP for years, but to no avail. It's become down right aggravating.

- \* Our complaints were/are not taken seriously by the DEP
- \* Response time was/is slow or non-existent
- \* NOV's were/are rarely issued

This may seem overly critical but when people's lives are at stake and odor problems continue to exist it becomes necessary to be critical. The frightening thing about this proposal is it can only make our odor problem worse. It will not protect the health and safety of our families.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor". This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is is an attempt to allow the polluter to avoid responsibility.

P. O. Box 13033  
Reading, PA 19612-3033



Under the proposed changes a facility would be immune from liability for odor emissions for (5) years if the facility has installed "best available technologies" (BAT). Only after 5 years would the facility be required to undertake additional measures to stop the odors. What this proposal is saying is its OK for the community to suffer from pollution while endless controversy and litigation conclude what is the "Best Available Technology". And for those of us who feel the residual odors from the BAT for odors is worse than the original malodor..... notify DEP in (5) years.

In the Summary of Regulatory Revisions it is stated that subsection (c) or Section 123.31 will "create **certainty** for both the public and facility operators concerning the extent of responsibility for emissions of malodorous air contaminants". **This revision does not "create certainty for both the public and facility operators", but it does create certainty environmental air polluters will avoid liability for odor emissions. Unfortunately, the only certainty created for the public is the UNCERTAINTY of how residual odors may effect them. The way to create true certainty for both the facility owner and the public is for the Department to Enforce The Law. Make it clear that NOV's and/or penalties will be issued when the law is violated. DEP won't have to get into issuing BAT for Odors Determinations (which in many cases is not necessarily the best technology but is the CHEAPEST).**

Oh, it should be noted that nowhere in the proposal do we see "residual odor" defined. How does it differ from the original malodor? Does it differ in Detectability? Intensity? Characteristics? Frequency? Duration? Hedonics?

In conclusion, we ask you to do what is right for our families and communities and reject these proposed revisions to the odor regulations.

Sincerely,

*Worathy J. Golden*  
*1511 P. Prince St.*  
*Journalsdale, Pa. 19605*

L.E.A.D.

LOCAL ENVIRONMENTAL AWARENESS DEVELOPMENT GROUP

of

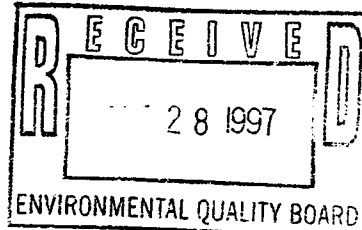
Berks County

97 NOV -7 PM 2:28

RENEW/COMMISSION

October 25, 1997

Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477



Dear Sirs,

Odors are a serious toxic health problem be they residual or malodor. They can cause impaired respiration, headaches, nausea and vomiting. Odors can lead to community deterioration, and discourage capital investment. We oppose revisions to the odor regulations (25 Pa Code~123.31) which are not protecting communities.

We live in a densely populated, heavy industrialized valley. We are subject to frequent air inversions and forced to breath malodor and residual odors almost every day. Our nose and throat burn, some of us become nauseous, or experience headaches. Our quality of life is violated when we are forced indoors by strong odors emitted by a lead smelter facility. In effect, this revision will allow the Department to grant a (5) year license for a continuing violation of the Air Pollution Control Act while at the same time tell people who have the headaches and sore throats to deal with it. Well let me tell you folks we have been dealing with stench and DEP for years, but to no avail. It's become down right aggravating.

- \* Our complaints were/are not taken seriously by the DEP
- \* Response time was/is slow or non-existent
- \* NOV's were/are rarely issued

This may seem overly critical but when people's lives are at stake and odor problems continue to exist it becomes necessary to be critical. The frightening thing about this proposal is it can only make our odor problem worse. It will not protect the health and safety of our families.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor". This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is is an attempt to allow the polluter to avoid responsibility.

P. O. Box 13033  
Reading, PA 19612-3033



Under the proposed changes a facility would be immune from liability for odor emissions for (5) years if the facility has installed "best available technologies" (BAT). Only after 5 years would the facility be required to undertake additional measures to stop the odors. What this proposal is saying is its OK for the community to suffer from pollution while endless controversy and litigation conclude what is the "Best Available Technology". And for those of us who feel the residual odors from the BAT for odors is worse than the original malodor..... notify DEP in (5) years.

In the Summary of Regulatory Revisions it is stated that subsection (c) of Section 123.31 will "create **certainty** for both the public and facility operators concerning the extent of responsibility for emissions of malodorous air contaminants". **This revision does not "create certainty for both the public and facility operators", but it does create certainty environmental air polluters will avoid liability for odor emissions. Unfortunately, the only certainty created for the public is the UNCERTAINTY of how residual odors may effect them. The way to create true certainty for both the facility owner and the public is for the Department to Enforce The Law. Make it clear that NOV's and/or penalties will be issued when the law is violated. DEP won't have to get into issuing BAT for Odors Determinations (which in many cases is not necessarily the best technology but is the CHEAPEST).**

Oh, it should be noted that nowhere in the proposal do we see "residual odor" defined. How does it differ from the original malodor? Does it differ in Detectability? Intensity? Characteristics? Frequency? Duration? Hedonics?

In conclusion, we ask you to do what is right for our families and communities and reject these proposed revisions to the odor regulations.

Sincerely,

*Nancy L. Tobias*



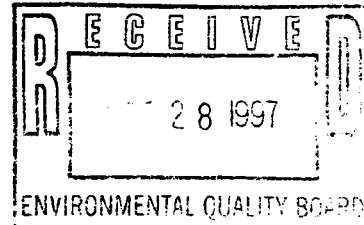
L.E.A.D.

LOCAL ENVIRONMENTAL AWARENESS DEVELOPMENT GROUP

of  
Berks County

October 25, 1997

Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477



Dear Sirs,

Odors are a serious toxic health problem be they residual or malodor. They can cause impaired respiration, headaches, nausea and vomiting. Odors can lead to community deterioration, and discourage capital investment. We oppose revisions to the odor regulations (25 Pa Code~123.31) which are not protecting communities.

We live in a densely populated, heavy industrialized valley. We are subject to frequent air inversions and forced to breath malodor and residual odors almost every day. Our nose and throat burn, some of us become nauseous, or experience headaches. Our quality of life is violated when we are forced indoors by strong odors emitted by a lead smelter facility. In effect, this revision will allow the Department to grant a (5) year license for a continuing violation of the Air Pollution Control Act while at the same time tell people who have the headaches and sore throats to deal with it. Well let me tell you folks we have been dealing with stench and DEP for years, but to no avail. It's become down right aggravating.

- \* Our complaints were/are not taken seriously by the DEP
- \* Response time was/is slow or non-existent
- \* NOV's were/are rarely issued

This may seem overly critical but when people's lives are at stake and odor problems continue to exist it becomes necessary to be critical. The frightening thing about this proposal is it can only make our odor problem worse. It will not protect the health and safety of our families.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor". This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is is an attempt to allow the polluter to avoid responsibility.

P. O. Box 13033  
Reading, PA 19612-3033



Page 2

Revisions to the odor regulations (25 Pa. Code~123.1)

Under the proposed changes a facility would be immune from liability for odor emissions for (5) years if the facility has installed "best available technologies" (BAT). Only after 5 years would the facility be required to undertake additional measures to stop the odors. What this proposal is saying is its OK for the community to suffer from pollution while endless controversy and litigation conclude what is the "Best Available Technology". And for those of us who feel the residual odors from the BAT for odors is worse than the original malodor..... notify DEP in (5) years.

In the Summary of Regulatory Revisions it is stated that subsection (c) of Section 123.31 will "create **certainty** for both the public and facility operators concerning the extent of responsibility for emissions of malodorous air contaminants". **This revision does not "create certainty for both the public and facility operators", but it does create certainty environmental air polluters will avoid liability for odor emissions. Unfortunately, the only certainty created for the public is the UNCERTAINTY of how residual odors may effect them. The way to create true certainty for both the facility owner and the public is for the Department to Enforce The Law. Make it clear that NOV's and/or penalties will be issued when the law is violated. DEP won't have to get into issuing BAT for Odors Determinations (which in many cases is not necessarily the best technology but is the CHEAPEST).**

Oh, it should be noted that nowhere in the proposal do we see "residual odor" defined. How does it differ from the original malodor? Does it differ in Detectability? Intensity? Characteristics? Frequency? Duration? Hedonics?

In conclusion, we ask you to do what is right for our families and communities and reject these proposed revisions to the odor regulations.

Sincerely,



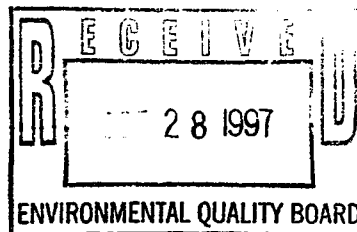
L.E.A.D.

LOCAL ENVIRONMENTAL AWARENESS DEVELOPMENT GROUP

of  
Berks County

October 25, 1997

Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477



Dear Sirs,

Odors are a serious toxic health problem be they residual or malodor. They can cause impaired respiration, headaches, nausea and vomiting. Odors can lead to community deterioration, and discourage capital investment. We oppose revisions to the odor regulations (25 Pa Code~123.31) which are not protecting communities.

We live in a densely populated, heavy industrialized valley. We are subject to frequent air inversions and forced to breath malodor and residual odors almost every day. Our nose and throat burn, some of us become nauseous, or experience headaches. Our quality of life is violated when we are forced indoors by strong odors emitted by a lead smelter facility. In effect, this revision will allow the Department to grant a (5) year license for a continuing violation of the Air Pollution Control Act while at the same time tell people who have the headaches and sore throats to deal with it. Well let me tell you folks we have been dealing with stench and DEP for years, but to no avail. It's become down right aggravating.

- \* Our complaints were/are not taken seriously by the DEP
- \* Response time was/is slow or non-existent
- \* NOV's were/are rarely issued

This may seem overly critical but when people's lives are at stake and odor problems continue to exist it becomes necessary to be critical. The frightening thing about this proposal is it can only make our odor problem worse. It will not protect the health and safety of our families.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor". This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is is an attempt to allow the polluter to avoid responsibility.

P. O. Box 13033

Reading, PA 19612-3033

Under the proposed changes a facility would be immune from liability for odor emissions for (5) years if the facility has installed "best available technologies" (BAT). Only after 5 years would the facility be required to undertake additional measures to stop the odors. What this proposal is saying is its OK for the community to suffer from pollution while endless controversy and litigation conclude what is the "Best Available Technology". And for those of us who feel the residual odors from the BAT for odors is worse than the original malodor..... notify DEP in (5) years.

In the Summary of Regulatory Revisions it is stated that subsection (c) of Section 123.31 will "create **certainty** for both the public and facility operators concerning the extent of responsibility for emissions of malodorous air contaminants". **This revision does not "create certainty for both the public and facility operators", but it does create certainty environmental air polluters will avoid liability for odor emissions. Unfortunately, the only certainty created for the public is the UNCERTAINTY of how residual odors may effect them. The way to create true certainty for both the facility owner and the public is for the Department to Enforce The Law. Make it clear that NOV's and/or penalties will be issued when the law is violated. DEP won't have to get into issuing BAT for Odors Determinations (which in many cases is not necessarily the best technology but is the CHEAPEST).**

Oh, it should be noted that nowhere in the proposal do we see "residual odor" defined. How does it differ from the original malodor? Does it differ in Detectability? Intensity? Characteristics? Frequency? Duration? Hedonics?

In conclusion, we ask you to do what is right for our families and communities and reject these proposed revisions to the odor regulations.

Sincerely,

*Linda M. Katzman*  
L.E.A.D. Member

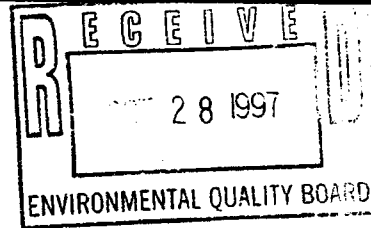
L.E.A.D.

LOCAL ENVIRONMENTAL AWARENESS DEVELOPMENT GROUP

of  
Berks County

October 25, 1997

Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477



Dear Sirs,

Odors are a serious toxic health problem be they residual or malodor. They can cause impaired respiration, headaches, nausea and vomiting. Odors can lead to community deterioration, and discourage capital investment. We oppose revisions to the odor regulations (25 Pa Code-123.31) which are not protecting communities.

We live in a densely populated, heavy industrialized valley. We are subject to frequent air inversions and forced to breath malodor and residual odors almost every day. Our nose and throat burn, some of us become nauseous, or experience headaches. Our quality of life is violated when we are forced indoors by strong odors emitted by a lead smelter facility. In effect, this revision will allow the Department to grant a (5) year license for a continuing violation of the Air Pollution Control Act while at the same time tell people who have the headaches and sore throats to deal with it. Well let me tell you folks we have been dealing with stench and DEP for years, but to no avail. It's become down right aggravating.

- \* Our complaints were/are not taken seriously by the DEP
- \* Response time was/is slow or non-existent
- \* NOV's were/are rarely issued

This may seem overly critical but when people's lives are at stake and odor problems continue to exist it becomes necessary to be critical. The frightening thing about this proposal is it can only make our odor problem worse. It will not protect the health and safety of our families.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor". This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is is an attempt to allow the polluter to avoid responsibility.

P. O. Box 13033  
Reading, PA 19612-3033

Page 2

Revisions to the odor regulations (25 Pa. Code~123.1)

Under the proposed changes a facility would be immune from liability for odor emissions for (5) years if the facility has installed "best available technologies" (BAT). Only after 5 years would the facility be required to undertake additional measures to stop the odors. What this proposal is saying is its OK for the community to suffer from pollution while endless controversy and litigation conclude what is the "Best Available Technology". And for those of us who feel the residual odors from the BAT for odors is worse than the original malodor..... notify DEP in (5) years.

In the Summary of Regulatory Revisions it is stated that subsection (c) of Section 123.31 will "create **certainty** for both the public and facility operators concerning the extent of responsibility for emissions of malodorous air contaminants". **This revision does not "create certainty for both the public and facility operators", but it does create certainty environmental air polluters will avoid liability for odor emissions. Unfortunately, the only certainty created for the public is the UNCERTAINTY of how residual odors may effect them. The way to create true certainty for both the facility owner and the public is for the Department to Enforce The Law. Make it clear that NOV's and/or penalties will be issued when the law is violated. DEP won't have to get into issuing BAT for Odors Determinations (which in many cases is not necessarily the best technology but is the CHEAPEST).**

Oh, it should be noted that nowhere in the proposal do we see "residual odor" defined. How does it differ from the original malodor? Does it differ in Detectability? Intensity? Characteristics? Frequency? Duration? Hedonics?

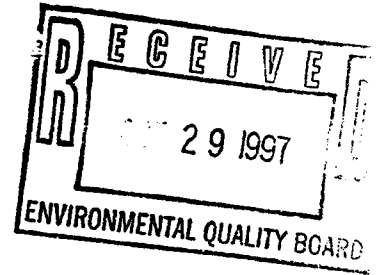
In conclusion, we ask you to do what is right for our families and communities and reject these proposed revisions to the odor regulations.

Sincerely,

*George H. Straub*  
*Dianne F. Straub*

Original: 1877  
Copies: Tyrrell  
Sandusky  
October 27, 1997

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



Re: Comments on Proposed Amendments to 25 PA. Code CHS. 121 & 123  
Regulatory Basics Initiative #3 (Malodors)

Dear Board Members:

Willamette Industries respectfully submits comments on the above referenced proposed regulatory changes, which appeared at 27 Pa. Bulletin 4340-4343 (August 23, 1997). Willamette Industries operates a number of industrial enterprises in Pennsylvania, including a major pulp and paper mill located in Johnsonburg, Elk County. As a new, world class facility, Willamette has installed advanced technology for the control of malodors commonly associated with the Kraft pulping process. We are familiar with the challenges of successful odor control and are experienced with the difficulties DEP currently faces in equitable and uniform enforcement of the current malodor regulation. Willamette therefore offers the following comments:

1.) We strongly support the proposal presented in Section 123.31 (c) which provides that a person who controls malodor through the use of best available technology (BAT) will not be required to further reduce residue odors, subject to a review of possible new best available technologies after five years. This provides a degree of certainty necessary for businesses to be able to balance environmental considerations and costs. It also addresses current limits in the practicality of the regulations (complete control of all odors at all times) and removes the reliance on subjectivity. These have made uniformity in enforcement untenable. We believe, however, that best available technology in a particular case should be defined, whenever possible, in a manner consistent with applicable Federal Regulations, on an industry specific basis. Indeed, one of the stated goals of the Regulatory Basics Initiative announced in 1995 is avoiding the imposition of regulations either more stringent than Federal standards or which impose costs beyond reasonable environmental benefits. EPA has recently committed a great deal of effort and money to formulate the Cluster Rules, under the Clean Air Act. These regulations, to be promulgated within days, provide for specific requirements for the control of odorous non-condensable gases (NCG's) within the industry. These requirements, known as MACT I (Maximum Achievable Control Technology) provide the needed framework to clearly define a technologically and economically feasible BAT. As a large and important industry within the Commonwealth with a major potential to emit malodor, we feel it is reasonable and in the spirit of the Regulatory Basics Initiative to incorporate these provisions by reference into the regulations, specific to the production of pulp using the Kraft process. This would result in an entirely consistent determination of BAT within the State, relieving the Department of the time, expense, and possible inconsistencies of properly developing an industry specific or case by case BAT.

2.) We do not believe it is feasible to prescribe a uniform method for evaluating the frequency of occurrence and extent of public objection for a potential malodor. Rather, incorporation of the Federal Cluster Rules for our industry, as noted above, would include specific availability requirements for malodorous control systems (99% availability for low volume high concentration gases (LVHC) and 96% for high volume, low concentration gases (HVLC)), thus avoiding the need for and expense of an inherently subjective evaluation.

3.) Although the proposed amendments are not clear on this point, we feel that the Department should retain discretion as to what kind of odor investigation and indeed whether or not any investigation will be conducted in response to a complaint. Discussion of the amendments seemed to indicate each complaint would require an investigation. Experience shows, however, that such discretion is indeed necessary to prevent the undue expenditures of Public time and money responding to the entirely subjective complaints of one or a handful of individuals, often made on a daily or more frequent basis, whether or not Best Available Control technology has been installed, or previous investigations have taken place. Requiring an investigation occur for each and every complaint lodged by only one individual is, in our opinion, an untenable position.

4.) Willamette believes that the determination of whether or not an odor or the degree of an odor is objectionable, because it is inherently subjective, cannot be accomplished by only one individual. We therefore suggest that a determination of objectionable odor require the consensus of a panel composed of two or more Department representatives.

It must also be noted that the presence of an odor, objectionable or otherwise, cannot be equated to the presence a health hazard or other danger to the public, and that such determination can be made independently. The issue of malodor is, instead, one of subjective response (whether an odor is unpleasant) and cannot ignore to what extent it can be practicably controlled. One need look no farther than the activities exempted under this regulation to verify this. In the application of regulations, such subjectivity must be limited whenever possible. Willamette therefore respectfully submits the above comments for the Board's consideration.

Thomas Detwiler

Technical Manager

**Summary of Willamette Industries, Inc. comments on Proposed Amendments to 25 PA. Code Chapters 121 & 123, Regulatory Basics Initiative #3 (Malodors).**

Willamette Industries operates a major pulp and paper mill located in Johnsonburg, Elk County where it has installed advanced technology for the control of malodors. Willamette is familiar with the challenges of successful odor control and is experienced with the difficulties faced in equitable and uniform enforcement of the current regulation. Willamette offers these comments:

- 1.) We strongly support the proposal presented in Section 123.31 (c) which provides that a person who controls malodor through the use of best available technology (BAT) will not be required to further reduce residue odors, subject to a review of possible new best available technologies after five years. This provides a degree of certainty necessary for businesses to be able to balance environmental considerations and costs. It also addresses current limits in the practicality of the regulations (complete control of all odors at all times) and removes the reliance on subjectivity. These have made uniformity in enforcement untenable. Best available technology should be defined in a manner consistent with applicable Federal Regulations, on an industry specific basis. It is a goal of the Regulatory Basics Initiative to avoid imposing regulations more stringent than Federal standards or which impose costs beyond reasonable environmental benefits. EPA has recently committed a great deal of effort and money to formulate the Cluster Rules under the Clean Air Act. These provide specific requirements for the control of odorous non-condensable gases (NCG's) within the paper industry. Known as MACT I (Maximum Achievable Control Technology) they clearly define a technologically and economically feasible BAT. The regulation should incorporate these provisions by reference, resulting in a consistent determination of BAT and relieving the Department of the time, expense, and possible inconsistencies of properly developing an industry specific or case by case BAT.
- 2.) We do not believe it is feasible to prescribe a uniform method for evaluating the frequency of occurrence and extent of public objection for a potential malodor. Rather, incorporation of the Federal Cluster Rules for our industry, as noted above, would include specific availability requirements for malodorous control systems, thus avoiding the need for and expense of an inherently subjective evaluation.
- 3.) The Department should retain discretion as to what kind of odor investigation and indeed whether or not any investigation will be conducted in response to a complaint. Experience shows that such discretion is necessary to prevent undue expenditures of Public time and money responding to the entirely subjective complaints of one or a handful of individuals, often made on a daily or more frequent basis, whether or not Best Available Control technology has been installed, or previous investigations have taken place. Requiring an investigation occur for each and every complaint lodged by only one individual is, in our opinion, an untenable position.
- 4.) Determination of whether or not an odor, or degree of an odor, is objectionable, because it is inherently subjective, cannot be fairly accomplished by one individual. We suggest determination of objectionable odor require consensus of two or more Department representatives.

The presence of an odor, objectionable or otherwise, cannot be equated to the presence a health hazard or other danger to the public or environment. Such determinations must be made independently. The issue of malodor is, instead, one of subjective response (whether an odor is unpleasant) and cannot ignore to what extent it can practicably be controlled. One need look no



farther than the activities exempted under this regulation to verify this. In the application of regulations, such subjectivity must be limited whenever possible. Willamette therefore respectfully submits the above comments for the Board's consideration.



Environmental Quality Board

Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal-2

p.o. box 8477 • Harrisburg, pa. 17105-8477 • (717) 787-4526

November 4, 1997

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

Re: Proposed Rulemaking - Malodors (RBI #3) (#7-325)

Dear Mr. Nyce:

The Environmental Quality Board has received comments regarding the above referenced proposed rulemaking from the following:

1. Mr. and Mrs. James Gilson
2. Mr. and Mrs. Clarence Powell
3. Ms. Lois Gaston
4. Ms. Barbara Bullus
5. Ms. Margaret A. Yenzi
6. Ms. Connie J. Powers
7. Mr. and Mrs. Clair D. Powell
8. Mr. Robert Thompson
9. Mr. and Mrs. Thomas Snyder
10. Ms. Constance W. Alegranti, London Grove Township
11. Mr. Daniel W. Williams
12. David W. Patti, President, Pennsylvania Chemical Industry Council
13. Ms. Patricia B. Pelkofer
14. Ms. Dolores A. Rubolin
15. Ms. Sarah Kurnes
16. Mr. James F. Ryan
17. Mr. Stephen Rhoads, Pennsylvania Oil & Gas Association
18. Mr. Paul Miller
19. Mr. and Mrs. William Gohn
20. Mr. John Warren

These comments are enclosed for your review. Copies have also been forwarded to the Senate and House Environmental Resources and Energy Committees. Please contact me if you have any questions.

Sincerely,

Sharon K. Freeman  
Regulatory Coordinator

Enclosure



Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal-2

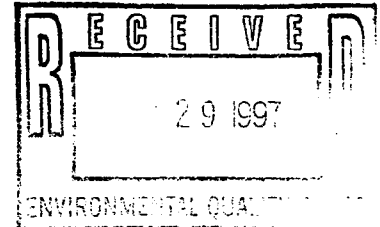
RECEIVED

97 NOV -7 PM 3:27

6607 Cormorant Place  
Philadelphia, Pa 19142  
October 26, 1997

RECEIVED  
RENEWAL/COMMISSION

Environmental Quatily Board  
P.O.Box 8477  
Harrisburg, Pa. 17105



Dear Sir or Madam:

I oppose the DEP's proposal to weaken odor emission standards titled "Regulatory Basics Initiative #3 malodors".

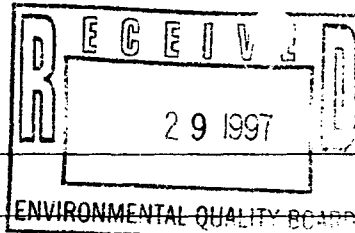
They should be better regulated and not after a period of five years.

The problem needs immediate attention, not after the health and comfort of the people has been violated.

Sincerely,

Sarah Kurnes

Oct. 27, 1997



Original: 1877

Copies: Tyrrell  
Sandusky  
Legal-2

Dear Sirs,

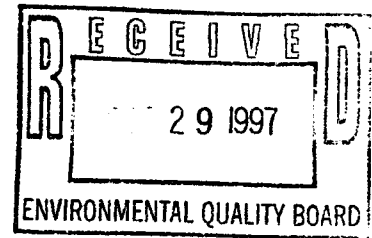
I formally ~~oppose~~ <sup>oppose</sup> your proposals to amend 25 Pa. Code, Chapters 121 and 123, concerning malodors and the 5 year proposal. These changes will weaken our environmental protection. There is not enough done now concerning release of manufacturing odors and their harm on private citizens. If anything is done, standards should be increased to better protect the public.

Sincerely,

Paul & Kathy Miller

233 Ridge Avenue  
Pittsburgh, PA 15202  
October 26, 1997

Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal-2



97 NOV -7 PM 2:20

Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477

Re: Regulatory Basics Initiative #3 (Malodors)  
Title 25: Pennsylvania Code Chapters 121 and 123

I am writing to express strong opposition to the proposed revisions of the malodor regulations.

I am an ordinary citizen – not a corporate executive. This is a plain sheet of white paper – not a corporate letterhead. Nevertheless, I hope you will still extend to me the courtesy of reading this brief letter.

At the outset, I wish to make it clear that I am not a disinterested party, because:

- My neighbors, my family, and I live downwind of the Neville Island industrial complex in Allegheny County.
- We breathe.

An odor is usually the first, and often the only, warning of a health-threatening emission from an industrial facility. By the time the odor is reported – much less investigated – workers and nearby residents may already have suffered harm. This “early-warning” system is crude, but it is better than nothing. When objectionable odors become an everyday condition – as we envision happening under the proposed regulations – we will lose any ability we now have to detect a malfunction at one of the local facilities.

In his *Post-Gazette* story about the local hearing on this proposal, Don Hopey mentioned that malodors account for about a third of the complaints received by DEP. The response to that situation speaks volumes about the law enforcement philosophy of the Ridge Administration. Instead of attacking real-world problems through direct and effective action, they put forth a proposal that would stifle citizen complaints.

Applying that philosophy to a life-threatening problem from the last century, we are forced to conclude that the Ridge Administration would have addressed the threat of coal mine explosions by prohibiting the workers from bringing canaries into the mines.

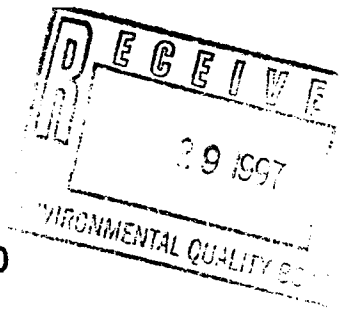
The proposed regulations should be withdrawn.

John Warren

# London Grove Township

97 NOV - 7550 2550  
550 East Baltimore Pike, Suite 200  
West Grove, Pa 19390

RECEIVED  
REVIEW  
610/268-8524 FAX 610/268-8527



Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal-2

October 28, 1997

Attn: Environmental Quality Board  
STATE OF PENNSYLVANIA  
15<sup>th</sup> Floor, Rachel Carson State Office Building  
P. O. Box 8477  
Harrisburg, PA 17105-8477

RE: 25 PA CODE, CHAPTERS 121 & 123 (MALODORS)

Dear Sir or Madam:

London Grove Township has been experiencing severe odor problems arising from the preparation of fresh mushroom compost and the processing of spent mushroom compost. With regard to these concerns, it is our premise that the Department of Environmental Protection is out of touch with technology in the area of odor control.

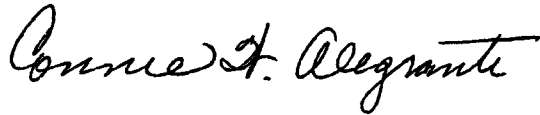
As is commonly known, some of the odors producing compounds are: hydrogen sulfide, ammonia, dimethyl disulfide, dimethyl sulfide and other organic amines and mercaptans. Literature is available and methods exist to measure and control these odors.

The Department of Environmental Protection, i.e. The Department/DEP, by the proposed changes is stepping back from the problem and not addressing it or seeking solutions. When the quality of life of our township residents is involved, the Board of Supervisors of London Grove Township feels that five years wait to consider new technology is unconscionable. Technology moves quickly today. If a

computer can be out of date within a year, we question The Department's proposal to do nothing for five years? Malodor determination and control must be aggressively pursued.

The Board of Supervisors of London Grove Township feels this proposed change, "Title 25" is a path by which The Department will do nothing to relieve the daily suffering of our residents. As participants of local government we find the lack of support from a state agency, such as DEP, intolerable.

Sincerely,

A handwritten signature in cursive script that reads "Constance W. Alegranti". The signature is written in dark ink and is positioned above the typed name.

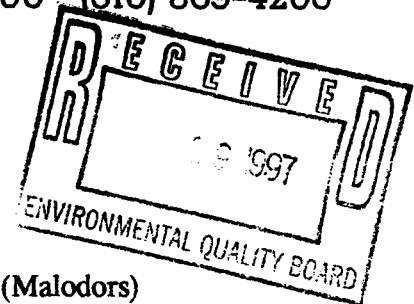
Constance W. Alegranti  
London Grove Township Supervisor

**DANIEL W. WILLIAMS, REGISTERED ARCHITECT**  
**142 WEST LONDON GROVE ROAD • WEST GROVE, PENNSYLVANIA 19390 • (610) 869-4206**

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

97 NOV -7 PM 2:27

RECEIVED  
REVIEW DIVISION



Re: The proposed changes to 25 PA Code Chapters 121 and 123 (Malodors)

In addressing changes to 25 PA Code, Please consider the following:

- Strengthen your documentation procedures.
- Set clear standards for what is acceptable and what is not acceptable.
- Designate methodology for measuring odors as per these standards.

The focus of 25 PA Code should be the intensity and impact of the odor; these proposed changes (Pa Bulletin Vol 27, No 34, Aug 23, 1997) seem more concerned with the hardships of regulating the odor generator. The efforts to "streamline the process" and "establish clear limits of responsibility for facility owners" rely far too heavily on the enigmatic presence of best available technology (BATs). The presence of BATs should not decide a five year hands-off period: the breadth, intensity and impact of the odor has to be the deciding factor in any determination of responsibility. BATs for odor control in many industries are not defined, and therefore should not exempt the odor producer from responsibility for five years. Why five years? If there is a debilitating odor, regardless of what BATs are in place, the odor must be regulated.

In London Grove Township there are large scale mushroom substrate production operations and spent compost processing operations that employ a more active line than in the past. Both of these types of operations represent a concentration and intensity of compost that is new to the industry and consequently generates unacceptable odors that effect many of the surrounding homes and schools. Essentially there are no effective BATs other than to put these operations indoors with air scrubbers. DEP cannot or will not enforce that expense (to move indoors) on the facility owners, therefore these odors are essentially going unregulated at tremendous cost to the health and quality of life of the two thousand nearby residents. DEP has also had difficulty comprehensively documenting these odors through manpower shortages, no effective measuring technology and the climactic irregularities of the odor incidents. Because they cannot adequately document, they are not able to regulate.

The proposed changes seem to be favoring the odor producer by minimizing the scrutiny to which he will be subjected. Giving a five year hands-off simply because some BATs are in place does not make sense if the odors are unacceptable. What is acceptable? That is the key question.



PAGE 2.

Also why are residences, agricultural commodities, and restaurants exempted? If they are generating "unacceptable" odors, they should be regulated. What recourse do those effected by the odors have if these sources of odors are excluded? The exclusions do streamline administration, but is that really what is important here. **There must be clear standards for what odor is acceptable and what is not, then there must be clear methodology for measuring the odors.** The answers are in the scientific literature. DEP does not have to reinvent the wheel. Please do not "streamline" by retreating from the problem. Providing five-year hands-off periods and listing exclusions only addresses malodors by permitting them.

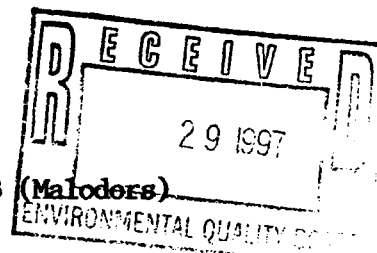
Thank you. Do not underestimate the impact malodors have on neighbors lives.

Sincerely,

A handwritten signature in black ink that reads "Daniel W. Williams". The signature is written in a cursive style with a long horizontal flourish at the end.

Daniel W. Williams  
London Grove Planning Commission  
London Grove Supervisor

Original: 1877  
Copies: Tyrrell  
Sandusky



Comments to Environmental Quality Board re: RBI # 3 (Malodors)  
PA Bulletin 27 (34): 4341-4343, August 23, 1997  
25 PA Code, Chs. 121 and 123 Legal-2

Submitted by: Patricia B. Pelkofer 825 Morewood Av # L -2 Pittsburgh, PA 15213-2925  
10/15/97

### General

Responding to "malodor" complains from Pennsylvania citizens is undoubtedly a difficult process for DEP staff. I believe it is a necessary one.

As we find more and more emissions of all degrees of toxicity to be "invisible" gases, it is most likely that odors and objectional smells are the only way citizens can question a potential health hazard from air emissions, toxic or merely objectional.

Furthermore, Allegheny County has many sources of malodors which area citizens voice complaints about to the Allegheny County Health Department, Bureau of Air Quality ...and to Group Against Smog and Pollution (GASP), the area citizens' organization. (I serviced the public information phone for many years, and can attest to that). Complaints are registered about rendering plants, steel and coke operations emissions, chemical plants, and of neighbors burning garbage and/or wolmanized lumber scraps in their fireplaces or wood burning stoves. Smaller auto body shop emissions are another complaint source. Often, calls are from senior citizens or parents with young children who have specific lung and breathing problems, with these emissions being a real health threat.

A recent tendency has developed for Allegheny County to restrict Article 21 (County air pollution regulation) to be no more stringent than PA 's code. If one urban area of PA with a separate air basin regulation has a more severe problem in any area of concern, I do not want to find the problem ignored or underaddressed to conform with a statewide regulation.

Therefore, I do not support the apparent relaxation regarding malodor enforcement as proposed .

### Specific

#### 121.1 Definitions:

Malodor :- The words at the end of this definition "to be an objectionable odor" gives a DEP staff inspector the role of deciding whether an odor is "objectionable". It is just as much the right of the citizen complaining to decide whether an odor is objectionable to him or her.  
This phrase should be deleted.

P. B. Pelkofer

Malodor: - I agree with the definition change which allows a single individual to file a complaint to DEP of an "objectionable malodor".

Odor Investigation : - The number of times a malodor is smelled and identified by a citizen has little relevance to whether or not the odor should be controlled. Therefore, the phrase "... the source and the frequency of" ...should be deleted.

**Chapter 123. Standards For Contaminants: Odor Emissions**

**123. 31 Limitations**

(c) should be deleted. Best Available Technology (BAT) will not provide reasonable protection to the public. Five years is an unacceptable amount of time for citizens to wait for the next review. This section effectively mutes complaints against a source for a five year period.

(d)(2,3,4,5) The inclusion fo these additional exemptions greatly weakens a regulation that is not adequately protective of citizens, especially in more pouulus urban areas. (d) should be deleted.

Thank you for this opportunity to comment.

*Patricia B. Pelkofer*

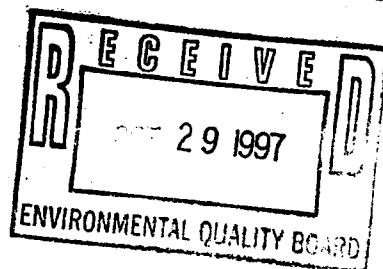
James D. Ryan  
136 State Rd.  
West Grove, Pa. 19390

October 28, 1997

Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal-2

97 NOV -7 PM 2:27

RECEIVED



Dear Sir:

I operate a tree nursery and landscape business on 18.5 acres in West Grove, Southern Chester County. My residence is also on this property.

I am writing this letter in regard to the problems we are experiencing from the Jas'nik and HMR properties. They are presently accepting spent Compost on both properties. London Grove Township has issued cease and desist orders to both properties but they keep operating. They are presently aerating the spent Compost and eventually want to burn and bag it as a topsoil. When the aerating process takes place, it produces a noxious,

nauseating, gaseous odor that can  
easily penetrate a closed household.  
The Avon Grove Elementary School is  
approximately 600 feet from both  
of these properties. There have been  
many cases of illnesses at the school  
from both children and teachers.  
We have many concerns about health  
issues.

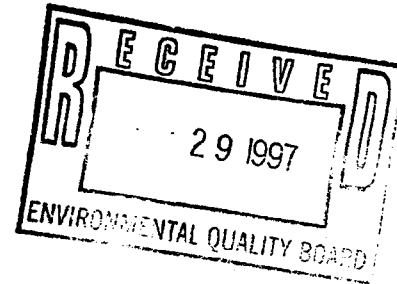
As a nurseryman and agriculturalist,  
I don't see how this can be considered  
an agricultural endeavor. Anything that  
can be done to help enforce the regulations  
and respond to complaints in a  
speedy manner would be appreciated.

Sincerely  
James D. Ryan

Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal-2

3 Meadow Woods Lane  
West Grove, PA 19390

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



October 28, 1997

I am responding to the invitation for public comments with regard to future regulations of malodor regulatory changes.

Although some of these issues are, at this time, to be dealt with at the local municipality level, I feel we cannot have the quality of life of those persons in a residential community be determined by persons who are devotedly giving a few hours of their time with minimal compensation from the township.

These odors that are created by spores and pollutants and other residual wastes and particulate matter must be eliminated in areas of residential homes and schools. If the township is unable to enforce its zoning laws, they have no business even considering exceptions to them while interfering with a good quality of life for its residents.

In particular, I draw your attention to London Grove Township, Southern Chester County, which, at this time, has the issues of the processing of spent compost before its Zoning Hearing Board. This is totally ridiculous. Practically the entire community of West Grove Borough and some of London Grove Township have been forced to breathe these malodors caused by operations who are processing spent compost without proper permits. The regulations need to address the level at which these issues are to be resolved.

Additionally, the fact that a school, Avon Grove Elementary, is within 250 yards of the HMR site and the JAS-NIK site is a grave concern. There are 700 students in this school. Just now, at 3:15 PM, October 28, 1997, my son has entered our home which is full of the noxious odor and he reports to me that 1 child in his classroom and another on the school grounds have thrown up today. The odor is so sickening and gaseous, you really cannot be outdoors, or in your home or a school facility when this process is going on.

Page 2

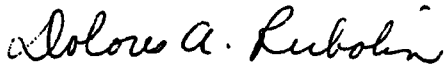
October 28, 1997

School administrators should be lobbying to have this composting practice stopped. This type of business should not be in a residential area. At 7:10 AM, this date, my daughter who walks to the corner of our development to get on a bus to go to the Avon Grove Middle School, had to put her hands over her face as the wind was strong this morning and the odor sickens you to even walk from your home to get on the bus.

We don't have time to wait for regulations to be adopted in this case. Furthermore, this illegal operation can be stopped if the mushroom industry were not allowed to influence our representatives and legislation. These operations should be closed down. They should be operating in areas that can insure the proper isolation distance that will guarantee a healthy environment for those who desire it.

The above are my comments on what issues should be addressed in the consideration of malodor regulatory changes.

Sincerely,

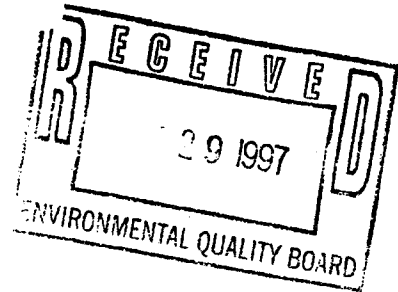


Dolores A. Rubolin

CC.: Chester County Health Department, Dr. Maher  
DEP, Mr. Furlan  
Avon Grove School District, Dr. Ferrari  
London Grove Township

97 NOV - 7 01 2:27

Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477



Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal-2

Dear Sirs.

I am writing to formally oppose revisions to the odor regulations (25 PA Code ~123.31). The stated purpose of these revisions is 10 Form Letters untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners". The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)". How will BAT be defined? Will economic considerations be a feature? What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process, it abolishes it, giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assessment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter township in Berks county. This incident resulted in reports of eye and nose irritations (including nose bleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.



The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation. For example odors from a faulty septic system or an illegal drug lab. What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

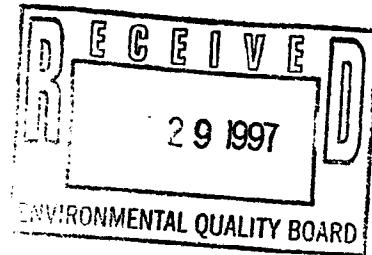
In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government give away to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

Sincerely,

*Mr. & Mrs. James Gelsa  
RD #4 Box 242  
Poundstown, LA 15167*

97 NOV -7 PM 2:27

Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477



Dear Sirs.

I am writing to formally oppose revisions to the odor regulations (25 PA Code ~123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners". The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)". How will BAT be defined? Will economic considerations be a feature? What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process, it abolishes it, giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assessment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter township in Berks county. This incident resulted in reports of eye and nose irritations (including nose bleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.

The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation. For example odors from a faulty septic system or an illegal drug lab. What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

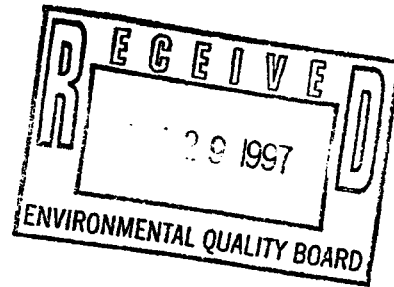
Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government give away to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

Sincerely,

*Mr. & Mrs. Clarence Powell*  
*General Delivery*  
*Leimblin, PA. 15478*

97101-1 28 27  
Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477



Dear Sirs.

I am writing to formally oppose revisions to the odor regulations (25 PA Code 123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners". The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)". How will BAT be defined? Will economic considerations be a feature? What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process, it abolishes it, giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assessment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter township in Berks county. This incident resulted in reports of eye and nose irritations (including nose bleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.

The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation. For example odors from a faulty septic system or an illegal drug lab. What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

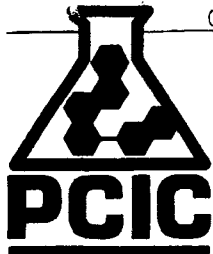
In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government give away to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

Sincerely,

*Lisa Gaston*

*P.O. Box 217*

*Jumble Pa*  
*15778*



Original: 1877

Copies: Tyrrel

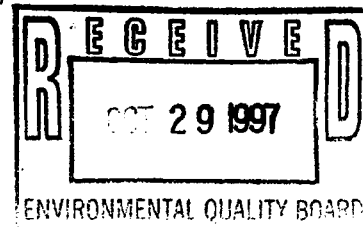
Sandusky  
Legal 2

**PENNSYLVANIA CHEMICAL INDUSTRY COUNCIL**

25 N. FRONT STREET • SUITE 100  
HARRISBURG, PENNSYLVANIA 17101  
717-232-6681  
FAX 717-232-4684  
HTTP://WWW.PCIC.ORG

97 NOV -7 PM 2:27

October 29, 1997



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

**RE: Written Comments on Regulatory Basics Initiative-3 (Malodor)**

Dear Chairman Seif:

The Pennsylvania Chemical Industry Council ("PCIC") submits these written comments in response to the Environmental Quality Board's ("EQB") proposal to amend 25 Pa. Code Chapters 121 and 123/Regulatory Basics Initiative-3 pertaining to malodors. These written comments incorporate by reference and supplement our testimony before the EQB on September 23, 1997. A copy of the remarks is attached hereto.

**I. Regulatory Basics Initiative**

PCIC supports the Department's Regulatory Basics Initiative. As part of this Initiative, the existing prohibition on malodors set forth in Section 121 and Section 123.31 was identified by the Department as a regulation that is more stringent than federal requirements. The Department also identified this regulation as subject to significant non-compliance confirming that the existing regulation is problematic because it hinges on several subjective determinations including the requirement that an odor be offensive to the public and the Department must agree that the odor is objectionable. Interestingly, the Department describes recent court decisions as establishing a "cumbersome set of criteria that must be met to establish a violation." See Bureau of Air Quality, Program Reports on Regulations. PCIC does not believe these court decisions impose any new obligations on the Department.

The purpose of the Regulatory Basics Initiative is to identify specific regulations which are more stringent than federal standards, serve as barriers to innovation, are obsolete or unnecessary, or which impose costs beyond reasonable environmental benefits or serve as barriers to adopting new environmental technologies, recycling, and pollution prevention. In the proposed rulemaking, the Department contends the revisions to the definition of malodor, the requirement to conduct an odor investigation, and imposition of best available technology ("BAT") "streamlines the complaint and investigation process and establishes clear limits of responsibility for facility owners." PCIC supports

“streamlining the complaint and investigation process.” However, the proposed amendments do not streamline the process. Instead, they remove important legal protections and may unintentionally create unnecessary and burdensome recordkeeping and reporting obligations for members of the regulated community who have never had a complaint from neighbors.

## **II. The Proposed Rulemaking Is More Stringent Than Federal Law**

Section 4.2 of the 1992 amendments to the Air Pollution Control Act authorizes the EQB to adopt regulations which are reasonably required to achieve and maintain national ambient air quality standards or to satisfy related Clean Air Act requirements. See 35 P.S. § 4004.2(a). However, EQB may not adopt regulations that are more stringent than those required by the federal Clean Air Act. See 35 P.S. § 4004.2(b). As discussed above, during the Regulatory Basics Initiative, the Bureau of Air Quality acknowledged that the existing malodor regulation is more stringent than federal law.

PCIC recognizes that some may contend that Section 4.2 does not apply to existing rules and regulations, 35 P.S. § 4004.2(f). While this may be an accurate reading of the statute, PCIC does not believe this “grandfathering” provision applies to significant amendments to existing regulations. The proposed requirement to conduct an odor investigation based on a single complaint is a significant amendment to the existing rule and must be reviewed under Section 4.2. PCIC believes the proposed amendment is prohibited by Section 4.2.

## **III. Section 123.31 Should Be Removed From the State Implementation Plan**

Unlike most other states, Pennsylvania’s Section 123.31 is part of the State Implementation Plan (“SIP”) and appears to be federally enforceable. As a result, the Department has taken the position in issuing Title V Permits that Section 123.31 is an “applicable requirement” and to the surprise of many in the regulated community, these Title V permits impose new obligations for permittees to monitor their property boundaries for odors, maintain records of such monitoring and report “deviations” and “violations” to the Department. At present, these permit conditions are enforceable by private citizens, the Department, and the Environmental Protection Agency. PCIC does not believe the prohibition of malodors is a matter of federal concern and recommends the Department initiate the process for removing malodor regulation from the SIP.

Malodors are a particularly appropriate area for local community standards and should not be federally enforceable. Historically, Pennsylvania has recognized the spirit of the social contract between neighbors and industry only implicates public policy concerns when that contract is broken through behavior or actions that created a public nuisance. Whether or not the Department goes forward with this proposed regulatory amendment, PCIC requests the Department consider additional rulemaking to remove Section 123.31 from the EPA-approved SIP. Malodors would still be prohibited under state law. Removing

the malodor provision from the SIP would not deprive private citizens or the Department of their rights under the State Air Pollution Control Act.

#### **IV. A Malodor Must Have a Nexus to a Public Nuisance in Order for the Department to Have Authority to Promulgate This Regulation**

The EQB has the power to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution. See 35 P.S. § 4005(a)(1). The Air Pollution Control Act defines air pollution as “the presence in the outdoor atmosphere of any form of contaminant, including, . . . odors . . . which may be inimical to the public health, safety, or welfare or which is or may be injurious to human, plant or animal life, or to property or which unreasonably interferes with the comfortable enjoyment of life or property.” See 35 P.S. § 4003. The statutory emphasis on “public health” and “unreasonable interference” clearly implies that there must be a public interest sufficiently strong enough to require a lawful business to invest in odor control equipment. The Department’s existing regulation is consistent with the state’s statutory definition by requiring a malodor to be “an odor which causes annoyance or discomfort to the public and which the Department determines to be objectionable to the Department.” See 25 Pa. Code § 121.1 (definition of malodor). The definition of malodor has withstood a constitutional challenge based upon void for vagueness. In finding the definition of malodor to be constitutional the Third Circuit Court of Appeals held that the words “annoy” and “discomfort” have long been used in both common law and statutory law. In addition, recent case law from the Environmental Hearing Board and the Commonwealth Court confirms that in order to prove a malodor, the Department must present the testimony of more than one person to demonstrate an odor caused annoyance or discomfort to the public.

The proposed amendment to the definition of malodor deletes the requirement of an odor being objectionable to the public. Instead, the Department proposes that a single complaint would trigger an “odor investigation.” Does this mean any complaint regarding odors would be considered a “deviation” for purposes of a Permittee’s Title V compliance history? If so, that would be a tremendous waste of governmental, as well as industry, resources.

#### **V. Alternate Approaches for Consideration**

There are a number of regulatory approaches being utilized by other states in the control of odors. Some states, including Pennsylvania, rely upon a public nuisance standard. Other states use certain criteria to determine the objectionability of an odor in ambient air. PCIC recognizes that at times, it is difficult to pinpoint the source of an odor incident. PCIC suggests the concept of incident validation such as the one used in the Bay Area Air Basin of California which requires ten “validated” complaints to trigger a formal investigation. Validation would require the Department to demonstrate there was an odor;



that the odor caused a public nuisance or annoyance; and that the Department confirmed the suspected source was indeed the origination point of the odor.

PCIC recommends that it should be demonstrated that the alleged malodor is both systematic and routine (i.e., a part of a facility's normal operations). This can be demonstrated through maintenance of a record of public complaints. For example, two observations made within one hour with a separation span of at least fifteen minutes would qualify as one incident.

A malodor complaint based upon an incident or process upset at a facility should not result in a formal odor investigation or in the requirement to implement BAT as the corrective action. The incident validation process can be used to determine whether an odor is ongoing or resulted from a one time occurrence. The Department's response should differ with this determination.

The validation process should also use metrics to reduce subjectivity and demonstrate the degree of public discomfort caused by an odor. Several jurisdictions employ the ASTM butanol odor intensity scale. This system uses a binary scale from 1 to 8 in which every point on the scale indicates the doubling of the concentration butanol ( $C_4H_{10}O$ ) in the control air. Air samples from a site are then compared with the control. Level 1 or 2 on the scale are low and detection probably won't result in any complaints. Level 3 on the scale may result in complaints. Higher levels indicate air concentrations of odors that are detectable and objectionable. Trigeminal "irritation" usually starts at Level 5. Such a procedure in Pennsylvania might actually result in the streamlining the agency seeks in this amendment. (More information on these techniques is available from the Air & Waste Management Association which has done much in the area.)

PCIC believes that an odor investigation should be defined as a multi-step progression of actions. Initiation of an investigation, after validated complaints have been reviewed, should require the suspected source to work proactively with the citizens who filed complaints to understand the problem and rectify or implement corrective action to the citizens' and DEP's satisfaction. Often, operational changes, or leak detection and repair activities may be the appropriate remedy to eliminate or reduce the source of the malodor.

Failure on the part of the source to conduct meaningful corrective action in a responsible manner could drive the process to more prescriptive measures; up to and including ordering the implementation of BAT controls for the malodor. An order to install and maintain BAT, should not, however, be the expected outcome of the odor investigation. Ordering BAT means the system of mediated understanding and cooperation has failed; not succeeded.

When BAT is ordered, PCIC does not believe that incineration, typically the most costly option, should be the presumptive remedy for malodor -- especially for volatile organic compounds (VOCs). Incineration is not the only option which is effective at controlling emissions. Worse, incineration wastes fuel (since there is little or no fuel value

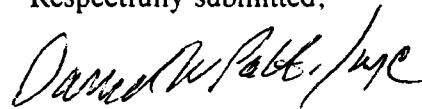
in the odors themselves) and could potentially generate other regulated emissions, such as NOx.

The Department should encourage facilities to identify the most cost-effective solution to the malodor which has the lowest total environmental impact. Alternative control technologies such as scrubbing, biofiltration, adsorption, and closed loop vapor balancing all have the potential to reduce or control malodorous emissions below the level which would trigger a malodor. In addition, as noted earlier, operational changes and leak detection and repair activities may be more appropriate for eliminating or reducing the source of the malodor. The facility in question should be afforded greater flexibility in identifying control technologies or operational changes to eliminate the malodor problem. The facility should be required to demonstrate, based on sound engineering practices or past practice, that the proposed solution will deliver the expected result. Continued citizen complaints would, of course, trigger another investigation and additional departmental action.

#### V. Conclusion

PCIC appreciates this opportunity to present these comments on this important public policy issue. If you have any questions, or would like additional information, please do not hesitate to call me.

Respectfully submitted,



David W. Patti  
President

# Malodor Testimony

[ [Follow Ups](#) ] [ [Post Followup](#) ] [ [PCIC Human Resources BBS](#) ]

Posted by [Dave Patti](#) on September 25, 1997 at 11:36:59:

Testimony of  
David W. Patti, President  
Pennsylvania Chemical Industry Council  
proposed Amendments to the Malodor Regulation  
25 Pa Code Chapter 121 and 123  
before the  
Environmental Quality Board  
September 23, 1997

Good afternoon. Thank you holding these important public hearings and for providing the Pennsylvania Chemical Industry Council an opportunity to comment on the proposed amendments to the Commonwealth's malodor regulation. My name is David Patti. I am the President of PCIC.

There are over 560 chemical-related facilities in Pennsylvania. Industries in the state that rely on the chemical industry for a significant portion of their inputs employ about 1.3 million workers. Pennsylvania's chemical industry itself, employs about 65,000 people, or more than 6 percent of the state's manufacturing workers. The chemical industry's total wage and salary payments in Pennsylvania amount to more than \$3 billion annually, or more than 10 percent of the total for manufacturing in the state. The state's chemical workers earn average annual wages and salaries of about \$48,000 – nearly 50 percent higher than the state's overall average.

Pennsylvania ranks 7th among the states in chemical production. The value of the state's chemical shipments total more than \$14 billion annually. Each year, over \$1 billion worth of chemical products are shipped abroad from Pennsylvania. Overall, the total US chemical industry exports more than \$24 billion annually, and maintains a trade surplus with every nation including Japan.

We make, in this state, the basic chemicals for products critical to our daily lives: pharmaceuticals, plastics, fertilizers, pesticides, paints and coatings, food additives and preservatives, synthetic fibers, cosmetics, and building materials.

## BACKGROUND

The proposed amendments to the malodor regulation is a major departure from historical approaches to "public nuisances." In fact, we were somewhat surprised to find this proposal in the Regulatory Basics Initiative since it is more far reaching than a procedural or streamlining issue.

PCIC and its 100 member firms share the concern of our Commonwealth's citizens that bad odors originating in manufacturing operations can be unpleasant, distasteful, irritating, disruptive, and even threatening to property values. Through voluntary efforts such as Responsible Care®, the chemical industry has worked hard to be good neighbors within the communities in which we are located.

Historically, Pennsylvania has recognized the spirit of the social contract between neighbors and industry only implemented public policy provisions when that contract was broken through behavior or actions that created a continuing public nuisance. The definition of "air pollution" in the state Air Pollution Control Act requires proof of a noxious or obnoxious odor which may be inimical to the public health, safety and welfare or which unreasonably interferes with the comfortable enjoyment of life or property. The statutory emphasis on "public health" and "unreasonable interference" clearly implies that there must be a public interest sufficiently strong enough to require a lawful business to invest in odor control equipment. The regulatory definition of malodor – in the current regulation – is consistent with the state statutory definition by requiring proof that the odor be "an odor which causes annoyance or discomfort to the public and which the Department determines to be objectionable to the public."

Caselaw requires the Department, in order to prove an odor violation, to present the testimony of more than one complainant to demonstrate a public nuisance because of the subjective nature of a community's perception of odors.

The current regulatory definition of malodor has withstood a challenge based upon "void for vagueness." Suit was brought on the grounds the regulation required an odor must discomfort "the public" before action can be taken. The Third Circuit Court of Appeals held Pennsylvania's odor emission regulation is not unconstitutional and noted the words "annoy" and "discomfort" have long been used in both common law and statutory law.

#### PROPOSAL

DEP proposes to amend the definition of malodor at 121.1 by deleting "an odor which causes annoyance or discomfort to the public and which the Department determines to be objectionable to the public" and replacing it with "an objectionable odor which is first identified by a member of the public and subsequently documented by the Department in the course of an odor investigation to be an objectionable odor."

DEP also proposes to add a definition of "odor investigation" which would be "an investigation of the source and frequency of odors which may include, but is not limited to, an inspection of a facility, surveillance activities in the area of a facility, affidavits, or odor logs."

Currently, the presumptive remedy for malodors is incineration. DEP proposes to amend the regulation to state that Best Available Technology (BAT) is required. If a malodor exists after five years following implementation of BAT, then DEP may require a new BAT determination.

DEP says the proposed regulation "streamlines both the complaint and investigation process and establishes clear limits of responsibility for facility owners."

#### COMMENTARY

Frankly, we don't agree with this assessment. PCIC fears the proposal will make dealing with malodors more contentious, more bogged-down in procedure and legal wrangling, more costly, and ultimately less responsive to the public and the demands of good environmental stewardship.

By removing annoyance and discomfort to the public from the definition of malodor, the Department is moving beyond its statutory authority to address "air pollution." The essence of malodor regulatory history is to balance public nuisance with economic burdens on business. The proposal sets no standards to determine or evaluate when an odor is "objectionable." The absence of annoyance and discomfort to the public makes the proposed regulation so subjective as to make enforcement arbitrary.

It is our very strong belief that malodor remedies should be reached on a case-by-case process involving the firm, the citizens who make complaints, and the Department. There should be a continuum of response that takes into account a firm's adherence to the social contract and demonstration of "good neighbor" behavior.

## RECOMENDATIONS

The definition of malodor must maintain the common law traditions of "annoyance and discomfort to the public." A single complaint should not trigger an investigation. This is a waste of governmental, as well as industry resources. In the Bay Area Air Basin of California, for example 10 "validated" complaints are required to trigger an investigation. The concept of incident validation is an important one. Validation requires the Department to show that "yes" there was an odor; "yes" it caused a public nuisance or annoyance; and "yes" the Department confirmed that the suspected source was indeed the origination point of the odor. (Often people will assume they know the source of the odor and report it without determining that shifting wind conditions are bringing an odor from an unusual source.)

Let me suggest another concept that should be present in the definition. In order to trigger Departmental action, it should be demonstrated that the alleged malodor is both systematic and routine (ie. a part of a facilities normal operations). This can be demonstrated through a record of complaints.

A malodor complaint which is the result of an incident or process upset at a facility should not result in a formal odor investigation or in the requirement to implement BAT as the corrective action. The validation process can be used to determine whether an odor is ongoing or resulted from a one time occurrence. The Department's response should differ with this determination.

The validation process should also use metrics to reduce subjectivity and demonstrate the degree of public discomfort caused by an odor. Several jurisdictions employ the ASTM butanol odor intensity scale. This system uses a binary scale from 1 to 8 in which every point on the scale indicates the doubling of the concentration butanol (C<sub>4</sub>H<sub>10</sub>O) in the control air. Air samples from a site are then compared with the control. Level 1 or 2 on the scale probably won't result in any complaints. Level 2 or 3 may result in complaints. Higher levels indicate air concentrations of odors that are detectable and objectionable. Trigeminal "irritation" usually starts at Level 5. Such a procedure in Pennsylvania might actually result in the streamlining the agency seeks in this amendment. (More information on these techniques is available from the Air & Waste Management Association which has done much in the area.)

PCIC believes that an odor investigation should be defined as a multi-step progression of actions. Initiation of an investigation, after validated complaints have been reviewed, should require the suspected source to work proactively with the citizens who filed complaints to understand the problem and rectify or implement corrective action to the citizen's and DEP's satisfaction. Often, operational changes, or leak detection and repair activities may be the appropriate remedy to eliminate or reduce the source of the malodor.

Failure on the part of the source to conduct meaningful corrective action in a responsible manner could drive the process to more prescriptive measures; up to and including ordering the implementation of BAT controls for the malodor. A order to install and maintain BAT, should not, however, be the expected outcome of an odor investigation. Ordering BAT means the system of mediated understanding and cooperation has failed; not succeeded.

When BAT is ordered, PCIC does not believe that incineration should be the presumptive remedy for malodor – especially for volatile organic compounds (VOCs). Incineration is not the only option which is

effective at controlling emissions. Worse, incineration wastes fuel (since there is little or no fuel value in the odors themselves) and could potentially generate other regulated emissions.

The Department should encourage facilities to identify the solution to the malodor which has the lowest total environmental impact. Alternative control technologies such as scrubbing, biofiltration, adsorption, and closed loop vapor balancing all have the potential to reduce or control malodorous emissions below the level which would trigger a malodor. In addition, as noted earlier, operational changes and leak detection and repair activities may be more appropriate for eliminating or reducing the source of the malodor. The facility in question should be afforded greater flexibility in identifying control technologies or operational changes to eliminate the malodor problem. The facility should be required to demonstrate, based on sound engineering practices or past practice, that the proposed solution will deliver the expected result. Continued citizen complaints would, of course, trigger another investigation and additional departmental action.

If a firm is ordered to install BAT, it should be granted a 10 year operating period before a review of the technology is required. Validated odor complaints resulting from a different process or piece of equipment within the same facility, would of course, trigger a new odor investigation. However, it is important that firms have some stability in their regulatory framework.

**RELATED ISSUE: MALODOR IN THE SIP**

Unlike most states, Pennsylvania's odor regulation is part of the State Implementation Plan and appears to be federally enforceable. This means the odor regulation may be an "applicable requirement" for major sources subject to Title V permitting. Notwithstanding any proposed revision to the malodor regulation, PCIC believes the SIP should be revised to eliminate the malodor regulation. Malodors are a particularly appropriate area for local community standards and should not be federally enforceable. In addition, the malodor regulation does not bear any relation to attainment or maintenance of a National Ambient Air Quality Standard.

Thank you again for the opportunity to present our views. I will be happy to take your questions, or obtain additional information for you on the points raised in these comments.

\_\_\_\_\_

Follow Ups:

\_\_\_\_\_

Post a Followup

Name: \_\_\_\_\_

E-Mail: \_\_\_\_\_

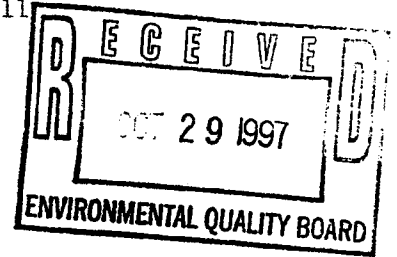
Subject: Re: Malodor Testimony

Comments:

# PENNSYLVANIA OIL & GAS ASSOCIATION

412 North Second Street, Harrisburg, PA 17101  
Tel: 717-233-0935  
Fax: 717-233-0940

Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal-2



October 29, 1997

Environmental Quality Board  
P. O. Box 8477  
Harrisburg, PA 17105-8477

## Comments on Proposed Rulemaking:

### Air Quality Amendments – Regulatory Basics Initiative No. 3 (Malodors)

The proposed regulation establishes a complaint-driven procedure whereby the Department of Environmental Protection (DEP) may investigate an odor to determine whether it is "objectionable." If the department determines that a "malodor" exists, it may require the emission source to install Best Available Technology (BAT) to control the odor. Under the proposal, the BAT controls would be in place for five years, and if a malodor is deemed to exist at the end of the five-year term, the department could require the source to upgrade the odor controls with any new BAT that may be available.

Currently, the Department regulates odors that are "objectionable to the public." The proposed regulation redefines the term "malodor" as

"an objectionable odor which is first identified by a member of the public and subsequently documented by the department in the course of an odor investigation to be an objectionable odor."

The proposed regulation also defines an "odor investigation" as

"an investigation of the source and frequency of odors which may include, but is not limited to, an inspection of a facility, surveillance activities in the area of a facility, affidavits, or odor logs."

### Relationship to oil and gas production facilities

Our concern with the proposed rule stems from the potential it creates for complaints by individuals about naturally occurring odors associated with the production of crude oil and natural gas. Crude oil and natural gas production, gathering and storage facilities could become subject to the proposed regulation because they are sources of volatile organic compounds (VOC) at various points in the process of moving hydrocarbon streams extracted from production wells to market.

**Sources of emissions.** The specific emission points for odors that may be associated with VOC emissions from oil and natural gas production facilities include process vents and storage vessels. Fugitive emissions may also be emitted at various points in the process.

**Malodors – RBI Modifications No. 3 (7-325)**  
**Comments of the Pennsylvania Oil and Gas Association**

---

- A process vent is a vent from a process unit that discharges a gas stream into the atmosphere during operation. Gas streams from process vents may be discharged directly to the atmosphere or discharged through a product recovery device.
- Odor emissions can also result from working and breathing losses associated with the storage of crude oil and condensate in fixed-roof storage tanks. Working losses occur due to the emptying and filling of storage tanks. Breathing losses are the release of gas associated with daily temperature fluctuations and other equilibrium effects.
- Fugitive emissions and associated odors may also emanate from valves, flanges, pressure relief valves, and other process and operation components.

**Volume of emissions.** The volumes of air contaminants emitted by the multiple sources located at such facilities are generally insignificant. With the exception of nitrogen oxide emissions from natural gas compressor stations, every source of air contaminants associated with oil and gas production facilities – including storage vessels used to store produced crude oil and condensate prior to custody transfer – account for an aggregate volume of air contaminants that never exceeds a mere fraction of the state-only operating permit “actual emissions rate.” Data generated by our member companies and submitted to the Bureau of Air Quality Control’s Division of Permits last year demonstrates that even the largest facilities, those capable of producing or processing unusually high levels of hydrocarbons, emit volatile organic compounds at approximately seven percent of the state-only permit threshold. The same facilities account for hazardous air pollutant emissions at only one percent of the state-only permit threshold.

Because of the low levels of regulated air contaminants emitted by our facilities, the Department exempted most sources associated with crude oil and natural production from its permitting regulations. The only sources actually subject to the Department’s air quality permitting program are natural gas compressor stations, and they are regulated under a general permit (GP-5).

In spite of the low VOC emission volumes, odors naturally associated with crude oil and natural gas exist, and they can migrate from the immediate vicinity of the source.

### **General concern**

The Pennsylvania Oil and Gas Association is seriously concerned with the establishment of a process that relies on the complaint of a single individual to initiate a formal investigation which by its very nature will result in an inherently subjective judgment call. While we appreciate the administrative difficulties associated with the current procedure which requires the Department to verify a broader “public” perception that a malodor exists, we believe that the proposed approach can be abused very easily, both by individuals who file complaints and by Department staff who conduct the investigation.

### **The property boundary as the primary threshold for regulation**

We are also concerned with a key provision in the proposed rule which establishes a naïve property boundary standard as the threshold for determining when an odor may become a subject of regulation.



**Malodors – RBI Modifications No. 3 (7-325)**  
**Comments of the Pennsylvania Oil and Gas Association**

---

Existing §123.31(b), which remains unchanged in the proposal, limits the determination of whether an odor can be classified as a “malodor” by allowing odors to be emitted so long as they remain within the perimeter of the property on which the source emitting the odor is operating. The subsection states:

“A person may not permit the emission into the outdoor atmosphere of any malodorous air contaminants from any source, in such a manner that the malodors are detectable outside the property of the person on whose land the source is being operated.”

**Property ownership in Pennsylvania.** The foregoing provision is problematic for the oil and gas extraction industry because of the nature of the relationship between surface and mineral property rights in Pennsylvania.

Because oil and gas exploration and production activities have been occurring in the Commonwealth since the beginning of the industry in 1859, most of the property interests in subsurface minerals in the producing regions of the state have been severed from their corresponding surface property interests. In areas of the state that are presently the subject of new exploration activities where the title to the surface and subsurface estates may not have been severed, an oil and gas prospector will acquire a leasehold interest in the mineral estate.

Producers typically improve their ability to produce oil and gas in paying quantities by acquiring interests in mineral estates from properties that lie adjacent to their initial holdings. Because of this historical practice, the extent of mineral interests owned or leased by typical Pennsylvania oil and gas producers today no longer corresponds to the boundaries of the surface estates from which they were severed. In most instances, the mineral interests held by Pennsylvania producers underlie numerous adjacent surface properties.

**Flaw in the present regulation.** The problem with the existing subsection (b) is that it does not recognize the historical distinction between the two estates in real property and could subject naturally occurring odors associated with the production of crude oil and natural gas to regulation as malodors unfairly.

Both in lease arrangements and when the mineral estate is a severed property interest, the owner or lessee of the mineral interest has an exclusive authorization to go upon the surface of the land for the purpose of prospecting for oil and gas, severing and removing it. Because of the extent of his mineral holdings, the producer typically will place crude oil and natural gas extraction, gathering, treatment and storage facilities on more than one surface property to develop them.

There may be instances where a member of the public will object to the smell of crude oil, natural gas or a related material and file a complaint with the Department. If the Department initiates an odor investigation on the basis of such a complaint and determines that the hydrocarbon odor crossed the property boundary “of the person on whose land the source is being operated”, it may decide to classify it as a “malodor” and to force the producer to install BAT to mitigate the offense.

Our problem in this context should now be obvious: In a typical oil and gas field in Pennsylvania, the odor of hydrocarbons from a production-related facility may migrate from one surface property to another, but it very likely will not leave the property under control of the producer who is operating the facility.

**Malodors – RBI Modifications No. 3 (7-325)**  
**Comments of the Pennsylvania Oil and Gas Association**

---

We believe that the imposition of regulatory controls on odors of crude oil, natural gas and related materials under such circumstances is unfair because it does not recognize the legitimacy of the extensive mineral interest that is held by the producer. At the very least, §123.31(b) should be amended to ensure that the boundary of the surface estate does not function as the threshold for regulating natural hydrocarbon odors from oil and gas extraction, gathering, treatment and storage facilities as malodors.

**Regulation of naturally occurring odors**

Our principal problem with the proposed rule, however, is more fundamental. We do not believe it is appropriate for the Department to regulate odors from crude oil, natural gas or related materials as malodors. Not only are such odors an inherent physical property of crude oil and natural gas, the VOC emissions that cause the odors occur in insignificant volumes that fall well below the Department's volumetric threshold for state-only air quality permits.

The proposed regulation already makes exceptions for similar types of odors by providing exemptions from the property boundary rule in subsection (b). Exempt from regulation as malodors under the proposal are:

- the production of agricultural commodities in their unmanufactured state;
- private residences;
- restaurants; and
- materials odorized for safety purposes.

In anticipation that there may be other types of materials that should be exempt from possible regulation as malodors, the proposed rule also provides that the Department may exempt "other sources or classes of sources determined to be of minor significance".

We submit that naturally occurring odors that result from routine emissions of volatile organic compounds at crude oil and natural gas exploration, production, gathering, treatment and storage facilities are of minor significance and should be granted an explicit exemption from the malodor rule.

**Recommendation**

To address the foregoing issues, we propose that the Environmental Quality Board adopt the following amendment to proposed §123.31(d) in the final rulemaking:

§ 123.31. Limitations.

\* \* \* \* \*

(b) A person may not permit the emission into the outdoor atmosphere of any malodorous air contaminant from any source, in such a manner that the malodors are detectable outside the property of the person on whose land the source is being operated.

\* \* \* \* \*

(d) The prohibition in subsection (b) does not apply [to odor emissions arising from the production of agricultural commodities in their unmanufactured state on the premises of the farm operation.]WHEN THE ODOR RESULTS FROM THE FOLLOWING:

1. THE PRODUCTION OF AGRICULTURAL COMMODITIES IN THEIR UNMANUFACTURED STATE.

**Malodors – RBI Modifications No. 3 (7-325)**  
**Comments of the Pennsylvania Oil and Gas Association**

---

2. PRIVATE RESIDENCES.
3. RESTAURANTS.
4. MATERIALS ODORIZED FOR SAFETY PURPOSES.
5. **OIL AND GAS EXPLORATION AND PRODUCTION FACILITIES AND OPERATIONS WHICH INCLUDE WELLS AND ASSOCIATED EQUIPMENT AND PROCESSES USED EITHER TO DRILL OR ALTER OIL AND GAS WELLS, TO EXTRACT, PROCESS, STORE AND DELIVER CRUDE OIL AND NATURAL GAS TO THE POINT OF LEASE CUSTODY TRANSFER, INCLUDING NATURAL GAS COMPRESSOR STATIONS, TO PLUG ABANDONED WELLS AND RESTORE WELL SITES, OR TO TREAT AND DISPOSE OF ASSOCIATED WASTES.**
- [5] 6. OTHER SOURCES OR CLASSES OF SOURCES DETERMINED TO BE OF MINOR SIGNIFICANCE BY THE DEPARTMENT.

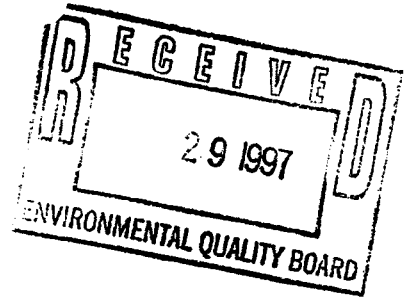
\*\*\*\*\*

*For the Pennsylvania Oil and Gas Association*

  
Stephen W. Rhoads  
President

97 NOV -7 11:27

Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477



Dear Sirs.

I am writing to formally oppose revisions to the odor regulations (25 PA Code 123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners". The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)". How will BAT be defined? Will economic considerations be a feature? What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process, it abolishes it, giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assessment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter township in Berks county. This incident resulted in reports of eye and nose irritations (including nose bleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.

The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation. For example odors from a faulty septic system or an illegal drug lab. What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

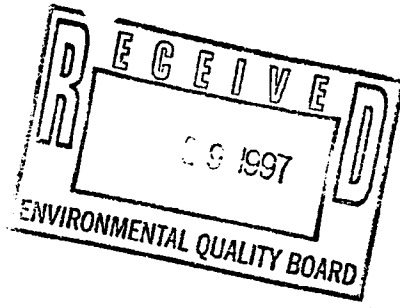
Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government give away to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

Sincerely,

*Barbara Bullen*  
*R D #2 BX127*  
*Mayport Pa 16240*

97 NOV -7 PM 3:27  
Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477



Dear Sirs.

I am writing to formally oppose revisions to the odor regulations (25 PA Code 123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners". The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)". How will BAT be defined? Will economic considerations be a feature? What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process, it abolishes it, giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assessment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter township in Berks county. This incident resulted in reports of eye and nose irritations (including nose bleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.

The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation. For example odors from a faulty septic system or an illegal drug lab. What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

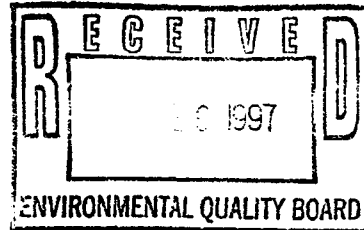
In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government give away to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

Sincerely,

*Margaret A. Yenzi*  
*RD 4 Box 402*  
*Punxsutawney, PA 15767*

97 NOV -7 AM 2:27

Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477



Dear Sirs:

I am writing to formally oppose revisions to the odor regulations (25 PA Code 123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners". The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)". How will BAT be defined? Will economic considerations be a feature? What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process, it abolishes it, giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assessment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter township in Berks county. This incident resulted in reports of eye and nose irritations (including nose bleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.



The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation. For example odors from a faulty septic system or an illegal drug lab. What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government give away to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

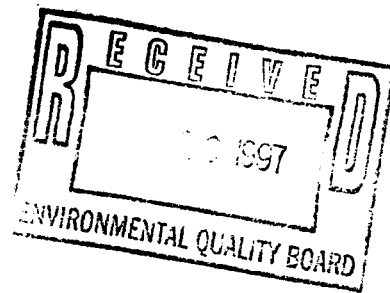
Sincerely,

*Connie J. Powers*

*P.O. Box 115*

*Timblin, PA 15778*

97 NOV -7 PM 2:27  
Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477



Dear Sirs.

I am writing to formally oppose revisions to the odor regulations (25 PA Code ~123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners". The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)". How will BAT be defined? Will economic considerations be a feature? What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process, it abolishes it, giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assessment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter township in Berks county. This incident resulted in reports of eye and nose irritations (including nose bleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.

The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation. For example odors from a faulty septic system or an illegal drug lab. What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

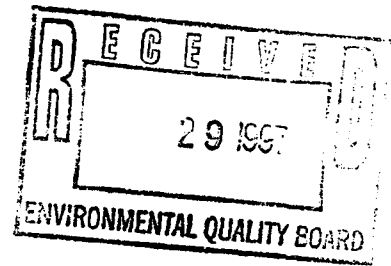
In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government give away to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

Sincerely,

*Mr + Mrs Clair D. Powell*  
*General Delivery*  
*Perrisblin PA. 15778*

97 NOV -7 PM 8:27

Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477



Dear Sirs.

I am writing to formally oppose revisions to the odor regulations (25 PA Code ~123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners". The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)". How will BAT be defined? Will economic considerations be a feature? What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process, it abolishes it, giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assessment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter township in Berks county. This incident resulted in reports of eye and nose irritations (including nose bleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.

The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation. For example odors from a faulty septic system or an illegal drug lab. What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government give away to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

Sincerely,

*Robert Thompson*

HC 60

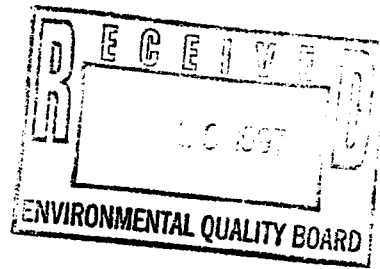
STAR RT.

Box 2

TIMBLIN PA 15778

97 NOV -7 PM 2:27

Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477



Dear Sirs.

I am writing to formally oppose revisions to the odor regulations (25 PA Code ~123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners". The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)". How will BAT be defined? Will economic considerations be a feature? What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process, it abolishes it, giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assessment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter township in Berks county. This incident resulted in reports of eye and nose irritations (including nose bleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.

The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation. For example odors from a faulty septic system or an illegal drug lab. What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

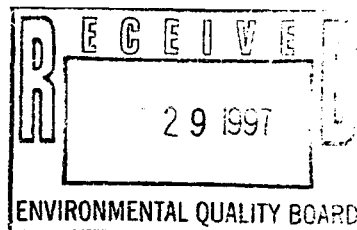
Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government give away to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

Sincerely,

*Mr. Mrs. Thomas Snyder*  
*Rd #4 Box 236*  
*Punxsutauney, Pa 15767*

Environmental Quality Board  
P.O. Box 8477  
Harrisburg PA 17105-8477



Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal-2

Dear Sirs,

I am writing to formally oppose revisions to the odor regulations (25 Pa. Code 123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners." The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)".

How will BAT for odors be defined? Will economic considerations be a feature?

What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process it abolishes it giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five-year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assessment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter Township in Berks County. This incident resulted in reports of eye and nose irritations (including nosebleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.

The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation (for example, odors from a faulty septic system or an illegal drug lab). What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government giveaway to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions

Sincerely,

*Mr & Mrs William G. John*





Environmental Quality Board

p.o. box 8477 Harrisburg, pa. 17105-8477 • (717) 787-4526

RECEIVED  
NOV 10 11:05  
November 5, 1997  
REVIEW COMMISSION

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

Original: 1877  
Copies: McGinley  
Nyce  
Tyrrell  
Sandusky  
Legal (2)  
Notebooks (2)

Re: Proposed Rulemaking - Malodors (RBI #3) (#7-325)

Dear Mr. Nyce:

The Environmental Quality Board has received comments regarding the above referenced proposed rulemaking from the following:

1. Mr. Charles E. Zaleski, Eckert Seamans Cherin & Mellott, LLC
2. Mr. Nicholas P. Caccavo
3. Louis L. Gold, Ph.D.
4. Denise Moore, Township of Neville
5. Mr. Roy Patrick Fontaine
6. The Honorable Arthur D. Hershey, PA House of Representatives
7. Mr. Dennis Cacciola
8. Mr. Dean M. Bottorf, Clinton County Commissioner
9. Mr. Fred Sembach, Pennsylvania Chamber of Business & Industry
10. Rose and Dan Reeder
11. Ms. Kathleen Liddle
12. Mr. Stephen B. Iorfido
13. Mr. Thomas G. Taylor
14. Mr. Gary C. Furlong, Sun Company, Inc.
15. Mr. J. Andrew Hadley, Procter & Gamble
16. Ms. Judy Fronina
17. Mr. William M. Belitskus
18. Mr. Robert E. Callahan, P.H. Glatfelter Company
19. Ms. Shelly Hussey
20. Mr. James J. McWilliams and Ms. Lori A. McWilliams

These comments are enclosed for your review. Copies have also been forwarded to the Senate and House Environmental Resources and Energy Committees. Please contact me if you have any questions.

Sincerely,

Sharon K. Freeman  
Regulatory Coordinator

Enclosure

Environmental Quality Board

Rachel Carson State Office Building, 15<sup>th</sup> Floor

P.O. Box 8477

Harrisburg, PA 17105-8477

Original: 1877

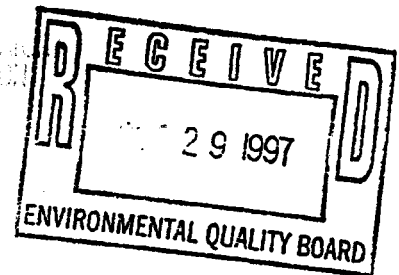
Copies: Tyrrell, Sandusky, Legal (2)

RECEIVED

October 28, 1997

97 NOV 10 AM 11:04

RECEIVED



Dear Environmental Quality Board,

As residents of London Grove Township, Chester County, we are very concerned about malodor regulations and enforcement.

Currently, there is a facility nearby our home and adjacent to the local elementary school (Jas-Nik, HMR, assoc.) creating malodorous conditions. They are using a new method to process spent (used) mushroom compost, which is at that point, a waste. Frequent aeration causes horrible, gassy odors. Not country manure odors, but odors like a refinery in a city may emit. They plan to truck in tons of waste from many facilities. The DEP has recently ordered them to stop using waste from 4 waste water treatment facilities. The Jas-Nik owners have called this waste a "co-product", "micro-nutrient," or "sand." The DEP did tests and called it waste and ordered its disposal. The DEP has also cited the companies for operating without air quality permits.

London Grove Township has issued cease + desist orders for numerous violations. They currently defend their position in front of the zoning hearing board.

We give you this summary to illustrate our problems. Even with the DEP and township citing these owners, they continue to show disregard.

We need the DEP or other enforcers to be able to stop these violators.

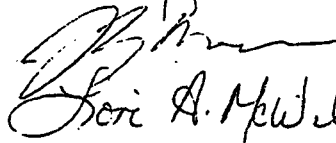
The citizens need safeguards against companies out to make money anyway possible. We have children at school with upset stomachs, headaches, sore throats, burning eyes, breathing difficulties and more. We have teachers that are irritated by the odor and a principal that has noticed the odors

getting progressively worse in the past year.

What else do we need for someone to listen to us and control these malodors? The DEP is documenting everything and trying to help but they need the tools to actually do something.

Please help the many citizens of this area, the children of our school, and others by making conscientious, effective decisions on regulatory changes.

Sincerely,



Lori A. McWilliams

James J. McWilliams

Lori A. McWilliams

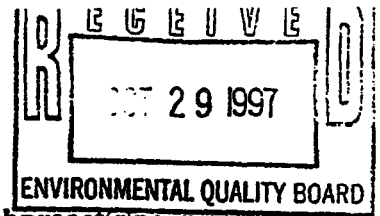
2 Newfield Ct.

West Grove, PA 19390

(610) 869-8230

- PROACT -  
PROTECTING PROPERTY RIGHTS OF  
ALL CITIZENS IN THE TOWNSHIP  
R.D. #1 BOX 172B KANE, PA 16735  
PHONE / FAX: (814) 778-5173

E-MAIL: [mbproact@penn.com](mailto:mbproact@penn.com)



97 NOV 10 AM 11:00

RECEIVED  
GENERAL COUNSEL

October 28, 1997

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

Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal (2)

Dear Sir:

I am writing this letter to voice my concern over and opposition to the PA Department of Environmental Protection's proposed changes to the Malodor Regulations. By the Department's own admission, a full 30% of citizen complaints to the PA DEP deals with malodors. It would seem by implementation of the proposed changes, the Department would be turning their backs on one of the most common problems experienced by the citizens of this commonwealth.

Currently, in Johnsonburg, PA, there is a serious malodor problem from Hydrogen Sulfide and Sulphur Dioxide from Willamette Industries, Inc.'s newly expanded papermill. Willamette expanded the plant right up to citizens homes, leaving only a street width of separation from its mill's operations. For the past three years as Willamette has increased production threefold, noxious gas problems have increased for residents living on the pulping end of the paper mill. Those citizens believe that additional pollution control equipment can and should be installed to control the noxious gas that is permeating their homes and properties, burning their eyes, noses, and throats, and making them sick to their stomachs. These residents have also been dealing with lime dust and wood fiber dust impacting their persons, homes and properties.

On October 21, 1997, life long Johnsonburg resident and respected business owner, Steve Iorfidio, became so sick from the noxious gas emanating from the plant that he could barely stand up and had to leave his residence to recover. Steve was sick for two days. When Mr. Iorfidio called Francis Higgins of the PA DEP Meadville Office, Mr. Higgins, told him the "gas won't harm you." That is no consolation to residents being impacted by the noxious, irritating pulping gas. At this point in time, Mr. and Mrs. Iorfidio do not allow their grandchildren to visit and sleep over at their home for fear of their grandchildren's health.

On January 31, 1997 the PA DEP issued a Notice of Violation to Willamette under the Malodor statutes. So while Willamette is being cited under existing law, the PA DEP is proposing to take away any protection the citizens of PA and Johnsonburg have against noxious gas saying it is "to

- PROACT -  
PROTECTING PROPERTY RIGHTS OF  
ALL CITIZENS IN THE TOWNSHIP  
R.D. #1 BOX 172B KANE, PA 16735  
PHONE / FAX: (814) 778-5173 E-MAIL: mbproact@penn.com

difficult to administer." The PA DEP's contention that "the existing regulations and court decisions interpreting them make it difficult and time consuming to document and resolve malodor problems" is ludicrous and irresponsible. What is required, is adequate funding for personnel to monitor the problems and a commitment to enforce existing regulations.

Under the newly proposed Malodor regulations, Willamette would not have to add any additional air pollution equipment for 5 years. Who is determining what is the "best available technology"? Who will make the decision? I am seriously concerned that the cost will be the overriding factor in these decisions and the citizens of this state will be forced to live with the problem for at least five years. All of this is going on while Willamette is proposing to increase NOx emissions from its Johnsonburg paper mill which simply means the residents will be further impacted.

The Malodor regulatory review process is seriously flawed. I have questions about Mr. Strong's participation on the Environmental Quality Board's review of the Malodor regulations.

A review of EPA files reveals that Dave Strong was hired by Willamette Industries, Inc. to perform consultation and testing work. I believe this is a serious breach of public trust and a direct conflict of interest. Dave Strong as Co-Chairman of the Water Quality Sub-Committee of the Clarion River Basin Commission has also worked closely with Mr. Redmond, Willamette's Environmental Supervisor at its Johnsonburg paper mill and the current president of the Clarion River Basin Commission. Mr. Strong would have worked for a corporation that stands to benefit greatly from the proposed Malodor changes. He has also been active in the public hearings conducted in our state. Mr. Strong was quoted in the Pittsburgh Post Gazette on September 26, 1997 saying that he had listened to the testimony from "Gasp" but did not believe the evidence applied.

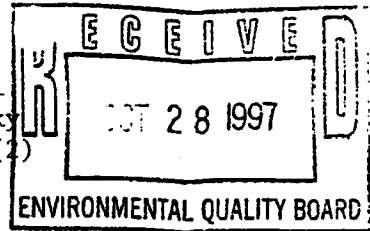
I expect a written reply from the Environmental Quality Board on how it is going to rectify the direct conflict of interest with EQB personnel and industry personnel that has occurred and was never made public during the regulatory review process.

Any appearance of impropriety on the part of the PA Environmental Quality Board will simply further erode the confidence of the public with the current "anti citizen protection" attitude of the PA DEP in carrying out its legislated mandate to protect the citizens of the Commonwealth

  
William M. Belitskus / PROACT

cc. Carol Browner

Original: 1877  
Copies: Tyrrell  
Sandsuky  
Legal (2)



Dear People,

We are writing to urge you defeat suggested revisions to Malodor regulations (25 Pa Code 123.31)

We could launch into the specific reasons we feel should be addressed. Mainly these revisions are simply boondoggles that will protect the interests of the mighty dollar and not the health interests of the citizens.

Here in Lock Haven, we are exposed to toxic malodors of an incinerator and the short cuts the company takes in leaving toxic soils uncovered for long periods of time.

We are becoming increasingly dismayed and even angered at our supposed "health protectors" who seem to be unresponsive to our concerns, fears, and needs.

A frequently regurgitated excuse is that most people do not seem concerned. In this country, most

97 NOV 10 AM 11:00

RECEIVED

RECEIVED

people do not even vote!  
People are concerned, but because  
of seemingly deaf ears, they  
are giving up. We espouse  
democracy but it doesn't happen  
anymore.

You folks need to do  
what is right! Protect our health  
not the dollar. Be more stringent  
on malodors, not less.

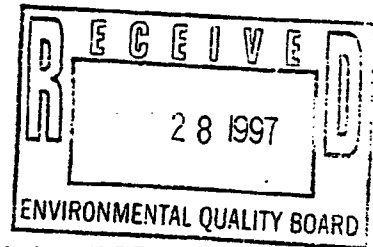
Waiting for a reply,

Rose & Dan Reeder  
HCR 75, Box 101  
Lock Haven, Pa, 17745

Environmental Quality Board  
P.O. Box 8477  
Harrisburg PA 17105-8477

Original: 1877

Copies: Tyrrell, Sandusky, Legal (2)



Dear Sirs,

I am writing to formally oppose revisions to the odor regulations (25 Pa. Code~123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners". The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)". How will BAT for odors be defined? Will economic considerations be a feature? What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process it abolishes it giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assessment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter township in Berks county. This incident resulted in reports of eye and nose irritations (including nose bleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.

The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation. For

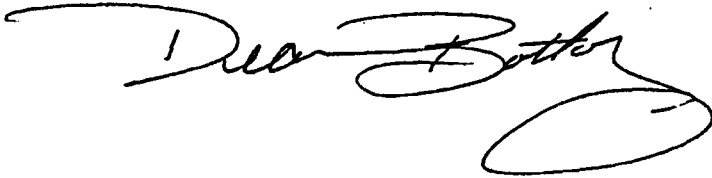


example odors from a faulty septic system or an illegal drug lab. What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

Odors have serious impacts. Offensive odors can cause poor appetite for food, lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

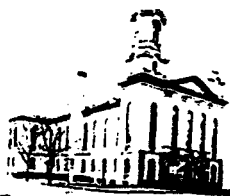
In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government give away to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

Sincerely,

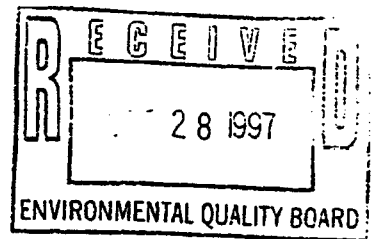


*Something certainly smells  
in Harrisburg. I think its  
coming from the Governor's Mansion*

DEAN M. BOTTORF  
CLINTON COUNTY  
COMMISSIONER



CLINTON COUNTY COURTHOUSE  
LOCK HAVEN, PENNSYLVANIA 17745 TEL. 717-893-4000



October 10, 1997

97 NOV 10 AM 10:55

EQB  
15<sup>th</sup> Floor Rachel Carson State Office Bldg  
P.O. Box 8477  
Harrisburg, PA 17105-8477

Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal (2)

Re: Malodors  
25 PA Code Chapters 121 and 123 proposed amendment

Gentlemen:

As a resident of this state, and as a neighbor of Modern Landfill, I have strong misgivings about the proposed changes.

We have been unable to have odor complaints investigated by DEP (Air Quality and Waste Management) now. What will happen when they really do have a reason not to come?

I am not sure about other industrial problems, but for landfills, these are my specific concerns:

1. If the landfill receives a five-year permit, using Best Available Technology, what happens when the waste stream changes, odors increase, and there is another technology available to treat this specific stream? Will the permit apply only to existing streams? Will the department be able to require the landfill to modify the incoming waste stream to eliminate the offending source? There are usually five to ten Form U applications filed every month at Modern Landfill. Each one could bring a new source of malodor.

2. What is Best Available Technology for a landfill? How is the department going to determine this? Right now, Modern Landfill is allowing odors to go beyond their boundaries, and the department, although they have been trying different approaches, has been unable to force compliance. Meanwhile, the adjacent property owners and residents are forced to put up with an almost daily stench. This is not just a malodor; it is an almost certain health risk!

3. Five years are a long time to put up with a malodor. Why is the department willing to subject the residents to five years of certain suffering? Have industry and business taken on a more important stance than the residents of this commonwealth? Why not judge each case individually? The Department has been entering into consent agreements with companies for years, sometimes seemingly unfairly to the residents. Why come down even more on the side of the polluters?

4. Verifying a complaint for a landfill can be a job. The odors come and go with change in wind direction. Other varying weather conditions also change the odor emissions. DEP employees are not willing to respond or are not reachable. Your investigator in waste management does not even carry a pager. He was at the landfill one day, and I could not even reach him!

To address one of your specific requests for comments:

1. In documenting whether an odor is objectionable:

A. Unless the department is willing to commit to sending an employee out to spend the time needed to evaluate a complaint, the department should accept logs kept by a competent individual as proof of frequency of odors. Like I said before, we have been trying to get an employee out here to verify an odor for the past six months without success. They always have some excuse - too busy, too much paperwork to do, going on vacation, cannot be reached. They have to be reachable, have time, and be willing to come, and we have to have time to wait for them, and not be put off by their unwillingness to come.

B. Extent of public objection is harder. If one person is affected, it is important. If this person did not willingly put himself in the position of suffering, that should be enough. I understand that we need industry and business, and even landfills within Pennsylvania to have jobs for the residents. But there is no reason others should suffer for that. Clean them up or get them out.

Since malodors can be subjective, how does your definition clear that up? What is an objectionable odor? If I can't stand to be out in my yard, have to close my windows, can't stand to work in my fields, or get tearing or shortness of breath, that signifies a problem to me. Suppose it affects me and not a department employee? I've seen landfill employees stand next to the working face and say "what odor?".

Thanks for your consideration.

Dennis Cacciola  
P.O. Box 3001  
York, PA 17402  
717-244-2995

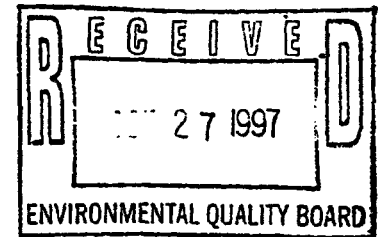


Environmental Quality Board  
P.O. Box 8477

Original: 1877 Harrisburg PA 17105-8477  
Copies: Tyrrell  
Sandusky  
Legal (2)

Dear Sirs,

97 NOV 10 10:55



I am writing to formally oppose revisions to the odor regulations(25 Pa. Code~123.31). The stated purpose of these revisions is untrue. They will not "streamline both the complaint and investigation process and establish clear limits of responsibility for facility owners". The effect of these regulations will be to make it easier for environmental air polluters to avoid liability for odor emissions and the need to control these emissions into communities.

"The new definition of odor investigation requires the Department to investigate the frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor." This is not streamlining as there is no need for investigating frequency of odors, odor logs or affidavits to determine if a malodor emission exists at the time of the DEP's investigation. What it is an attempt to allow the polluter to avoid responsibility.

Under the proposed changes a facility would be immune from liability for odor emissions for five years if the facility has installed "best available technologies (BAT)". How will BAT for odors be defined? Will economic considerations be a feature? What constitutes BAT will become subject to endless controversy and litigation while communities suffer.

This exemption limits the liability of the facility operator at the expense of communities who may still suffer from malodors. It does more than streamline the complaint and investigation process it abolishes it giving citizens no recourse in the case of persistent problems with malodors. In many cases this exemption will not be in the public interest. In the case of a landfill installation of odor control equipment is an on going process, giving a five year hiatus to operators will create huge odor problems. At times the DEP will be wrong in its assesment of the need for odor control. For example they believed no odor control would be necessary for a medical waste autoclave in the City of Chester. However once the facility began to operate the need for odor controls became evident. Under the proposed regulations the people of Chester would have been forced to live with even more obnoxious odors. What will be done in the case of improper operation of odor control as was the case at a compost plant in Exeter township in Berks county. This incident resulted in reports of eye and nose irritations (including nose bleeds), lightheadedness, headaches and weakness. This resulted in the Department changing the control. These are but a few of many cases in which this proposed change could prevent the Department from acting and cause health problems to citizens.


The addition of exemptions under 123.31(d) may have latent consequences. Numerous activities at restaurants and private residences could warrant an odor investigation. For

example odors from a faulty septic system or an illegal drug lab. What may be the consequences if local nuisance ordinances regulating these are overturned and the department no longer investigates complaints caused by such odors? Materials odorized for safety should also not be exempt. If the odorizing agent causes discomfort an investigation and adjustment or change in the odorant should be able to be made.

Odors have serious impacts. Offensive odors can cause poor appetite for food; lowered water consumption, impaired respiration, nausea and vomiting. Offensive odors can lead to the deterioration of personal and community pride, discourage capital investment, lower socioeconomic status and deter growth. Odors may be the first warning a community has of a toxic spill. What will the consequence be if a facility is exempt and no one reports the odor of the spill, or the complaint is not investigated because of the BAT exemption?

In conclusion, I believe that the Department finding malodor investigations "difficult and time consuming" is not a reason to stop enforcing the law. These revisions are a government give away to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our communities and reject these dangerous revisions.

Sincerely,



Roy Fontaine

3 KIRKLAND ESTATES  
LUATSONTOWN, GA  
17777

Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal (2)

RECEIVED  
57 NOV 10 11:10 AM '97  
961 Beaver Grade Pa.  
Moon Township, Pa. 15108  
October 22, 1997  
REVIEW OF PROJECT

ENVIRONMENTAL QUALITY BOARD

Environmental Quality Board  
P.O. Box 8477  
Harrisburg, Pa. 17105

Gentlemen:

My concern is that I have been notified that the State Department of Environmental Protection is proposing to give a five year exception from community complaints about noxious odors.

Regulatory Basic Initiative #3 malodors will weaken odor emission standards. To allow this weakened inspection system to proceed for five years is absolutely unacceptable.

It is estimated that there are 29 different toxic substances at a rate of 1.2 tons per day released into the air by our industries on Neville Island.

Because of the wind direction most residents are not aware of these foul smelling emissions, many of which could be carcinogenic (four of these are proven carcinogens). Many of the residents are aware that the odor from the rendering plant (Tapco Co.) has diminished somewhat, but again the wind direction can be a determining factor.

Although I have no scientific evidence, it has occurred to me that the foul smell of aromatic chemicals at the industrial end of Neville Island is greater after dark and the early AM hours.

I am a member of the Community Advisory Panel of Ashland/Aristect/Neville Chemical Companies. My general impressions is that these companies are making a very strong attempt to reduce air pollution. However, reducing air pollution must be a continuous undertaking. Placing a five year moratorium on community complaints certainly would send the message that all are satisfied and the effort would plateau.

I am led to believe that the direct pollution of rivers with industrial waste is negligible. However, the chemical released into the air can end up there as these chemicals are dissolved in or washed out by the rain.

It is understandable that it is very difficult for American chemical companies to compete with foreign companies that are not required to meet any standard with respect to the pollution of the environment, but constant pressure must be applied to make American systems more efficient and much less polluting.

With the use of catalysts and other techniques, the yield from organic chemical reactions is approaching 100%. Substances that were at one time considered waste are now being recycled in the loop to produce useful products. Using bacteria to break down harmful chemicals has been a remarkable breakthrough in reducing the water pollution of our rivers.

Undoubtedly many of our Neville Island industries have done a good job, but it is still not satisfactory; they must do better. We must not send a message that we are now satisfied because only 1.2 tons of chemicals are put into our immediate environment every day.

Sincerely,

*Louis L. Gold*  
Louis L. Gold, Ph.D

# Township of Neville

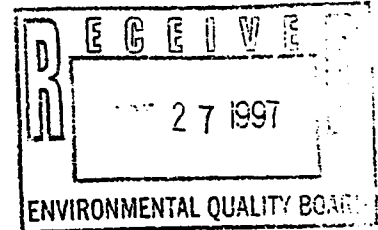
## Board of Commissioners

Municipal Building • 5050 Grand Avenue • Pittsburgh, Pennsylvania 15225  
(412) 264-1977 • FAX (412) 264-8906

October 25, 1997

Environmental Quality Board  
PO Box 8477  
Harrisburg PA 17105

Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal (2)



Gentlemen:

I am contacting you with regards to a recent communication from the Neville Island Good Neighbor Committee regarding the DEP'S new proposed ruling proposing to give companies a *FIVE YEAR EXEMPTION* from community complaints about noxious odors. The Board of Commissioners is unaware of any proposed ruling regarding this exemption, however, they would be adamantly opposed to such an exemption due to a continual noxious odors emanating from the Inland Products/TAPCO facility on Neville Island.

The Township has been plagued for years with overwhelming odors from this plant and to grant them a five year exemption would be unjust to citizens not only in Neville Township but also the neighboring communities.

I have enclosed a copy of the notice for your review. Upon receipt of your response, I will forward a copy not only to Neville Township's Board of Commissioners but also the state senator and representative. I look forward to hearing from you for clarification regarding a potential ruling that would harm our citizens.

Thank you in advance,

Sincerely,

A handwritten signature in cursive script that reads "Denise Moore".

Denise Moore  
Township Secretary

CC: Christopher Allen, Public Participation Coordinator / Office of Policy & Communications

NOV 10 11 09:57 AM  
RECEIVED  
ENVIRONMENTAL QUALITY BOARD



## **Jobs and the Environment Workshop**

**Save the Date! Sat., Nov. 15<sup>th</sup>**

The Neville Island Good Neighbor Committee is concerned about both preserving local jobs and improving our environment. Is this really possible? Clean Water Action is working with a number of local unions on an all day workshop on Jobs and the Environment. This all day workshop will bring together local labor and environmental activists to talk about where there have been conflicts between our goals and what solutions for working together might be.

To reserve your space in this workshop contact Myron Arnowitz at Clean Water Action, 765-3053. Lunch will be provided at the event, and stipends are available to cover childcare or other costs of attending.

---

## **Stop DEP's "Stinky" New Rule!**

*Bill Leone  
Barrett  
Hollen*

The state Department of Environmental Protection (DEP) is proposing to give companies a FIVE YEAR EXEMPTION from community complaints about noxious odors. This exemption is based on their using so-called "best available technology" (actually, better methods of controlling odors usually exist).

Further, if this new regulation goes through, DEP will not conduct unannounced inspections in response to community complaints of odors. They will only inspect at times arranged with the company! DEP needs to stop ignoring complaints and take action against companies that emit noxious odors!

### **WRITE TO THE ENVIRONMENTAL QUALITY BOARD:**

- \* Tell them that you oppose the DEP's proposal to weaken odor emission standards titled "Regulatory Basics Initiative #3 - malodors."
- \* We need to have immediate inspections of facilities when the community complains of dangerous odors.
- \* Five years is much too long for a plant to emit odors with no action from the DEP!

Write: Environmental Quality Board, P.O. Box 8477, Harrisburgh, PA 17105  
or e-mail to: [Regcomments@al.dep.state.pa.us](mailto:Regcomments@al.dep.state.pa.us)  
(subject heading must read "Regulatory Basics Initiative #3 - malodors" and you must include your name and mailing address)

**Letters must be received by October 29th - write today!**

Nicholas P. Caccavo  
1605 Packer Avenue  
Philadelphia, Pa. 19145-4829  
(215) 468-2869

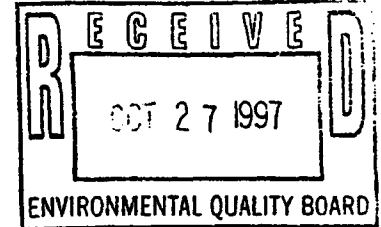
Original: 1877

Copies: Tyrrell  
Sandusky  
Legal (2)

97 NOV 10 AM 10:57

October 22, 1997

RECEIVED  
REVIEW ON ACTION



Environmental Quality Board  
P.O. Box 8477  
Harrisburg, Pa. 17105

Sirs:

Your new proposal (Regulatory Basics Initiative #3 Malodors) to give Pennsylvania companies a five (5) year exemption from community complaints about noxious odors is completely out of order. The D.E.P. is supposed to look out for we, the people and not for large corporations who care less about the general public!!

To weaken the malodor regulations and to make it much more difficult - almost zero for communities to complain about odors and try to get a response from D.E.P. is against all health and common sense approach.

( WHOSE SIDE ARE YOU ON???)

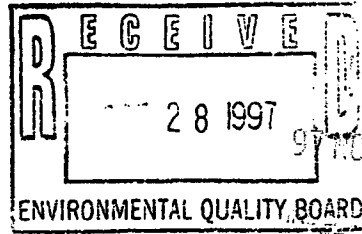
*Nicholas P. Caccavo*

Nicholas P. Caccavo

NPG/amc

Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal (2)

October 25, 1997



Environmental Quality Board  
P.O. Box 8477  
Harrisburg, PA 17105-8477

Dear Sirs:

I am writing to formally oppose revisions to the odor regulations (25 PA. Code-123.31). These revisions are a government give away to industry at the expense of our communities health and peace of mind. I ask you to do what is right for our citizens and reject these dangerous revisions.

Sincerely,

A handwritten signature in cursive script that reads "Kathleen Liddle".

Kathleen Liddle  
713 Pinewood Circle  
Pottsville, PA 17901

Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal (2)

97 NOV 10 10:11:01  
Stephen B Iorfido  
207 High Street  
Johnsonburg, PA 15845

RECEIVED  
97 OCT 14 AM 10:59  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Secretary of Department of Environment  
Protection Agency

Dear Mr. Seif,

I am writing you this letter opposing the rule change for Malodors (RBI-Number 3) (Number 7-325 Less Stringent). My wife and I live directly across from Willamette Industries and they built a Lime Kiln 75 feet to 100 feet across the road. I have lived in my home for 35 years and operated a beer distributor for over 50 years. Things were just fine until Willamette moved in and gave us alot of problems. I am very much in favor of Industry, but I don't like what Willamette did to my wife, my family and myself. We have been covered with lime and Black Liquor many times over the past couple of years. We can not sleep at night because of the noise from the Kiln. My grandchildren come to visit us from Pittsburgh and because the smell makes the them sick, they can no longer stay at our house. I think something has to be done about this. They are not up to the standards including clean air. I think someone from your department should come to Johnsonburg and check things out.

Willamette loads lime waste at the end of the Kiln in the open and the dust blows across the road into my sons car wash. Is this legal? I should say not. This is causing him a loss of business. He is just trying to make a living for himself and his family. Mike Maloney, manager at Willamette, told us 8 months ago that they were going to do something about this. They have not done a thing. They are ruining my life not to mention my wife, too. We our getting lime on our vehicles nearly every day. They tore up the blacktop in front of my sons two buisnesses. Mike Singer, who is the head of Construction, told my son and I that Willamette would put 1/2 inch of black top over his existing black top. The reason he agreed to do this was because Willamette trucks and other vehicles used his area to park and turn around. They have not done any of the things they promised to do. There were numerous days that our customers could not get near the Beer Distributor and Car Wash because of Willamettes big equipment blocking the road while working on construction. We tried to help them and cooperate with them. They offered to buy my house at half of the price it would cost to rebuild. I have a beautiful brick and stone home and I intended to stay here with my wife the rest of my life. It is impossible to stay here. Just like Dan Surra said, "You shouldn't have to live under these conditions." They have destroyed our property because of the Lime Kiln being so close to our house. If you have any questions, I would appreciate it if you would contact me. If you need to talk to my lawyers, I'll make arrangements to do so. They are located in Pittsburgh, Pa. I am closing this letter in saying that I sure hope my wife and I can get out of this awful situation. We have been putting up with this smell and noise for over 4 years. It doesn't seem to bother any of the management in Willamette, because none of them live in Johnsonburg!

Sincerely,  
Stephen B. Iorfido

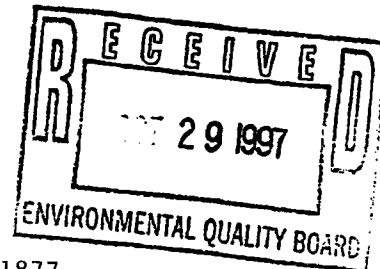
OCT 15 1997

October 28, 1997

Environmental Quality Board  
15<sup>th</sup> Floor Rachel Carson State Office Building  
PO Box 8477  
Harrisburg, PA 17105-8477

97 NOV 10 AM 11:04

REVIEW OF COMPLAINTS



Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal (2)

Dear Board,

This letter is in response to the proposed amendment to Chapter 121 and 123 general provisions and standards for contaminants.

With regards to the documentation of questionable odors, I believe that any public objection should be handled with great concern. The frequency of objections does need to play a part in the severity of the offense to the public. I suggest anyone questioning the validity of such complaints, be available to personally witness the offense.

As I write this letter today, my house is being overtaken by gassy odors coming from the Roberts/Losito properties that border my neighborhood. I have filed complaints every time the gassy odor is in and around my home with our Township and also with the DEP.

It has also come to my attention that Dr. Ferrari, on behalf of the Avon Grove Elementary School, filed a complaint on 10/20/97 to the London Grove Township, about the odors coming into the building. He called because he had many complaints from the teachers, students and parents about the odor on that particular day.

I believe that the 5-year review period for BAT is not an appropriate time frame. If a operation is emitting malodors and residents are filing complaints, the maximum time frame should be 1 year. New procedures are continuously being created and my hopes are that businesses should be required to keep up with any that have a positive effect for everyone involved.

In the matter of the long-standing minimum requirements for malodors resulting from emissions of VOC's, I do not know what they are. However, if they are long-standing, it seems to me there is a reason for that, and it should continue.

There is a large population that is affected when such odor occur. However, not every one takes action when it does affect them. This is just one of the ways I personally am taking action.

Sincerely,

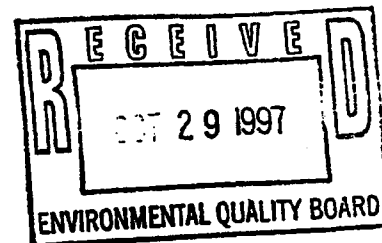
A handwritten signature in cursive script that reads "Shelly Hussey".

Shelly Hussey  
11 Meadow Woods Lane  
West Grove, PA 19390



**P. H. GLATFELTER COMPANY**

CORPORATE HEADQUARTERS / SPRING GROVE, PA 17362-0500 / (717) 225-4711



October 28, 1997

97 NOV 10 11:11:06

RECEIVED  
RENEW DIVISION

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

Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal (2)

Re: Proposed Rulemaking  
RBI #3 (Malodors)

Dear Board Members:

The P. H. Glatfelter Company operates a pulp and paper making facility in Spring Grove, Pennsylvania, that employs over 1,100 people. As a large manufacturing facility, the Spring Grove Mill is subject to a myriad of state regulations covering all aspects of its operations. Because the pulp and paper industry is a very competitive business and we are competing with many other companies throughout the country, the Company feels strongly that regulations imposed by Pennsylvania DEP should meet at least two criteria: they should not be more stringent than federal standards, and the costs imposed by the regulations should be commensurate with the benefits derived from the regulations. For this reason, we support DEP's efforts to review the existing regulations under the Regulatory Basics Initiative, and we appreciate the opportunity to comment on proposed changes.

We have reviewed the proposed changes to the malodor regulations which appeared at 27 Pa. Bulletin 4340-4343 (August 23, 1997), and have the following comments.

- 1. The malodor regulations are more stringent than federal standards and should be deleted, not revised.**

Section D of the Preamble to the proposed rulemaking states that one of the purposes of the Regulatory Basics Initiative was to identify regulations more stringent than federal standards. The malodor regulation in Section 123 of the PA Code is more stringent than federal requirements. There is no federal standard or regulation for malodor, and malodor is not an air contaminant under the Clean Air Act. Therefore, under the RBI, the regulation should have been deleted, not revised to ease implementation.

The malodor regulation also should be deleted from the State Implementation Plan (SIP). The purpose of a SIP is to enforce the National Ambient Air Quality Standards (NAAQS), and there is no NAAQS for malodor. Inclusion in the SIP makes the malodor regulation federally enforceable, which is inappropriate because malodor is not a pollutant under federal regulations. Inclusion of the regulation in the SIP also has implications for Title V facilities: the malodor regulation is a federally enforceable applicable requirement, malodor emissions are permit violations and require compliance plans, and installation of malodor controls requires permit revisions.

**2. The proposed definition of malodor is inappropriate.**

The proposed revision to the definition of malodor in Chapter 121.1 is inappropriate because the aspect of public objection to an odor has been dropped from the definition. Under the proposed definition, an odor may be considered a malodor if it is objectionable to only one person. Malodor is extremely subjective, and people have widely varying sensitivities. It is not reasonable to judge the compliance of sources, or to force sources to implement potentially expensive control systems, based on the odor perception of a single person. This revision would also make it possible for a person with a grudge against a source or facility to lodge an odor complaint in order to inflict damage (monetary, publicity, noncompliance violation) or harass that source or facility. For these reasons, a malodor should be defined as an odor which is objectionable to the public.

The Summary of Regulatory Revisions in Section E of the proposed rulemaking indicates that the intent of the Department in revising the definition of malodor was to add authorization to conduct an odor investigation in response to a public complaint, and to require the Department to document, through an odor investigation, if a malodor occurred. The concept of triggering a formal odor investigation by a complaint from one person could be added to the definition of malodor without dropping the concept that malodors are objectionable to the public. The definition should state:

Malodor- An objectionable odor which is first identified by a member of the public and subsequently documented by the Department in the course of an odor investigation to be an objectionable odor *to the public*.

**3. The requirement for control of malodors by incineration or its equivalent in §123.31 (a) should be deleted.**

Use of incineration as a control method is not appropriate for all sources and malodors. Appropriate control technology should be determined for each source on a case-by-case basis. When determining appropriate control technology, the Department should consider economic, environmental, energy and technology issues, as well as the magnitude and duration of the malodor. Any control technology or limitation specified in the regulation should allow for such case-by-case determinations.

4. We support the addition of a 5 year limitation on liability for control of residual odors, but object to the use of Best Available Technology to obtain it.

Best Available Technology (BAT) is defined in Chapter 121 as "equipment, devices, methods or techniques as determined by the Department which will prevent, reduce or control emissions of air contaminants to the maximum degree possible and which are available or may be made available". The definition does not include the consideration of economic, energy or environmental impacts when determining an appropriate control technology. Without such considerations, implementation of a control technology can require costs such as inordinately high capital or operating costs, intensive energy use or the creation of new pollutants and pollutant streams which are not offset by the benefit gained from reducing emissions. As stated in Section D of the preamble to the proposed rulemaking, one of the purposes of the Regulatory Basics Initiative was to identify regulations which impose costs beyond reasonable environmental benefit. Requiring strict implementation of BAT without regard to other impacts would impose costs beyond reasonable environmental benefit.

An appropriate technology for malodor control would be one which is reasonably available considering economic, energy and environmental impacts, as well as technological feasibility. Technology similar to Reasonably Available Control Technology (RACT), which has been applied for NO<sub>x</sub> and VOC control, would be appropriate.

Thank you for the opportunity to comment on the proposed rulemaking.

Sincerely,

P. H. GLATFELTER COMPANY



Robert E. Callahan  
Environmental Manager

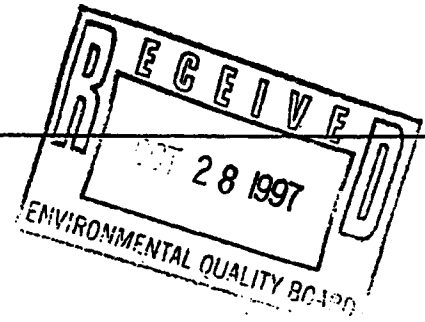


# Procter & Gamble

The Procter & Gamble Paper Products Company  
P O Box 32, Mehoopany, Pennsylvania 18629

97 NOV 10 11:00

NOV 10 11:00  
REVENUE



October 24, 1997

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

Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal (2)

Dear Sir or Madam,

I am pleased to offer comment on the Regulatory Basics #3 (Malodors) Pennsylvania regulatory changes recently proposed by the Environmental Quality Board. I submit these comments on behalf of my employer, the Procter & Gamble Paper Products Company.

We recognize the difficulties associated with regulation of malodor, and are sensitive to the Department of Environmental Protection's concern that a significant portion of public complaints received by the Department are related to malodors. We are also sensitive that, given the subjectivity surrounding odor and the difficulty in determination of what might constitute a public nuisance, care be exercised in any modification of the existing rule. Further, we offer these comments with the belief that facilities and the Department should emphasize and continue growth in actively working directly with local communities regarding these and other potential environmental interest areas.

Our specific comments on the rule proposal are as follows:

## 1. Malodor Definitions

As the Pennsylvania malodor regulation is rooted in the concept of prevention or correction of a public nuisance rather than achievement of a quantifiable air standard, it is important that any definition of malodor include the concept of public nuisance. The current definition at 25 PA Code, Section 121.1 includes this idea, requiring the Department to assess the extent to which an odor is "objectionable to the public" in evaluating compliance with the standard. We believe the Department's proposed definitions of "malodor" and "odor investigation" have inappropriately created the potential for initiation of environmental enforcement action in the absence of a public nuisance. As written, it is quite possible that a single individual with an odor concern could initiate an odor investigation, and a single member of the Department could, through an investigation, concur with this concern and find a facility in violation of the standard. Given the

lack of a quantifiable, objective standard for odor, and the subjective nature of what constitutes an objectionable odor, the absence of some broader measure of true public nuisance is troubling.

We agree with the Department's proposal, included in the definition of "odor investigation," that additional tools be more clearly provided to aid in definition of whether an odor is objectionable to the public, including the use of affidavits and odor logs. Should these tools indicate the presence of a malodor, the Department and source must work together, ideally with the affected public, to eliminate the concern. However, we would propose that the Department retain the existing definition of malodor and maintain broader discretion regarding the initiation of an odor investigation based on this definition.

The Department has specifically requested comment on consideration of the frequency and extent of public concern in evaluation of whether an objectionable odor exists. In light of the above comments, we believe strongly that the extent of public concern should be carefully considered in evaluating the presence of an objectionable odor. Presumably, the frequency of an odor occurrence, as well as the number of individuals concerned and the level or magnitude of concern with the odor would be included in the Department's assessment as to whether or not an objectionable odor exists. At a minimum, the assessment would seem to hinge upon some reasonable number of individuals in the vicinity of the source expressing a concern over the odor as objectionable.

## 2. Odor Control Technology

We support the Department's proposal to include the provision at Section 123.31(c) that, should a source employ "best available technology" control for odor reduction, no additional odor control measures would be required for a set period of time. Given the general absence of an objective measure of odor, a facility would have legitimate concern over pursuit of odor reduction technology with the risk of not satisfying regulatory requirements after implementation of the control. The change proposed provides a source more assurance regarding the level of control required. We also believe that any periodic reevaluation of odor control technology should carefully consider the incremental perceived odor improvement potentially gained with additional control application. Unlike control of more quantifiable pollutants (e.g. NO<sub>x</sub> reduction under Pennsylvania's RACT requirements), odor reduction would not be easily amenable to a cost effectiveness test, and it is possible that additional and costly controls could be required with marginal odor reduction and no significant improvement in perceived community odor.

We believe the Department should retain its current minimum requirement for malodors resulting from emission of VOCs (Section 123.31(a)). We also suggest that acceptance and recognition of pollution prevention approaches be included more explicitly within this section. For example, the language at 123.31 (a) could be modified to read, "Techniques other than incineration, *including odor source reduction or pollution prevention activities*, may be used to control malodorous air contaminants...."

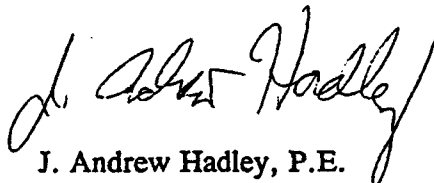
## 3. State Implementation Plan (SIP) Revision

In the background to the rule proposal the Department notes that the final regulatory revision would be submitted to the US Environmental Protection Agency as an amendment to the Pennsylvania SIP. The SIP process is designed to insure attainment of the National Ambient Air

Quality Standards, and should only include those standards necessary to achieve the NAAQS. As there is no odor NAAQS, we believe the odor regulation should be deleted from the PA SIP.

We appreciate the opportunity to provide comment on the proposed revisions to Pennsylvania's malodor regulations, and remain very interested in the development of this and other "Regulatory Basics Initiative" proposals. Please feel free to contact me with any questions on the above comments.

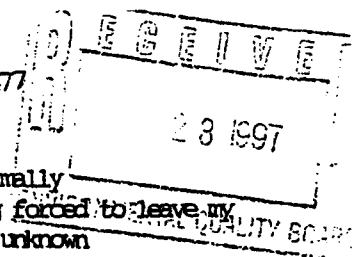
Sincerely,

A handwritten signature in black ink, appearing to read "J. Andrew Hadley". The signature is written in a cursive style with a large, prominent "H".

J. Andrew Hadley, P.E.  
Site Environmental Manager

10/26/97

EQB, 15th Floor-Rachel Carson Stat. Office Building P. O. Box 8477 Harrisburg, PA 17105-8477



To Whom It May Concern, I offer the following opinions:

-As a citizen of PA whose life has been devastated by air pollutants, I am writing to formally oppose revisions to the odor regulations (25 PA Code Chapters 121 and 123). Before being forced to leave my property (home and business), my family/former customers/neighbors were forced to inhale unknown quantities of unknown pollutants and endure ill health effects caused by a neighboring facility discharging toxic/annoying chemicals into my environment and that of others in the neighborhood. All of this was allowed to continue despite repeated complaints to the DEP. Odors were reported continually to no avail. I am homeless because I live in a state where some are allowed to freely emit odor-causing toxins and the DEP refused to follow its own written rules concerning malodors.

- We, the homeowners, the taxpayers, the citizens should not have been forced to involuntarily breathe another's fumes. Therefore, when harmful odors exist in the breathing environment of citizens, the air is not clean and is obviously harming the public and is violating that person's rights. No citizen should be forced to inhale unknown pollutants that may severely and negatively affect health, life, work, ability to earn an income and property values. Even sporadic events of pollution may cause severe problems.

-If 30% of citizen complaints do relate to malodors and many were not resolved before reaching the courts, then clearly thousands of citizens have already born the burdens of others' air pollution. If they also followed the present DEP complaint route and DEP failed to secure effective remedies by halting the polluters' actions, why must the complainant's rights (personal health, property, etc.) continue to be eroded by the very State "regulatory" agency charged with protecting "air quality"? Why should the DEP then rewrite their own poorly written, selectively enforced regs to condemn citizens to at least five more years of noxious fumes, health problems of any severity, loss of property, loss of income, etc?

In my opinion, the new regs are solely intended to relieve DEP and the offenders of any responsibility or liability for their daily non-actions as they simultaneously extend a five year sentence to the innocent citizens forced to breathe the pollution.

Those protected by AMERICAN DISABILITY ACT (and others who are more chemically sensitive citizens):

Neither the present regs nor the proposed "modifications" take into consideration the rights of those individuals who are already suffering from chronic illnesses or those who are more likely to suffer immediate or latent reactions due to exposures to low levels of chemicals. A myriad of detrimental health symptoms for these groups can be extremely harmful, even fatal for those already diagnosed with an illness or are more sensitive to chemicals. The DEP regs do not consider their special needs and the importance of breathing pollutant-free air; it can kill them. Instead, these regs dictate that they too must suffer through five more years of chemical-laced, pollutant-filled, odor-reeking air.

Public documentation of chemical odors and requests for enforcement:

The citizens of PA whether elderly, young, or chronically ill are now asked to comment on two methods of regulations which simply will continue to harm, injure, or kill those very citizens. Since I feel that I was "gassed" out of my own home and property, health and welfare, I cannot offer methods to this same "regulatory agency" that has contributed to my plight. We had already documented, reported, called and written about these repeated violations before being forced like refugees to leave our home repeatedly.

DEP's minimum requirements for chemicals, malodors, and VOCs:

The present regs have never been applied evenly to all industries emitting harmful/annoying VOC emissions causing malodors, health problems, etc. The present and proposed regulations are useless to harmed citizens if the reported facility causing the malodors does not meet the minimum VOC emissions level which trigger the permit requirement. Further, reported violators who have not reached the minimum requirement for VOCs may continue to emit tons of pollutants into the air which harm the citizens. In these cases, permits are not required by DEP. This is not an acceptable choice for the citizens of PA who are the neighbors of those causing the problems.

-Other major problems with the proposed revisions include the yet "unnamed" additional sources of exemptions and the vague language in the proposed changes (with the use of "may", "objectionable", "if", "or" etc).

-My family/neighbors/business/quality of life/health/income/property have suffered irreparable harm despite repeated pleas for help. At times I felt that I lived in Nazi Germany where gases were purposely used to eliminate humans. In my case, I fled while I was still alive. The nightmarish harm that has been perpetrated upon us by any industry/DEP/government or agency should never have happened to anyone.

-Every aspect of my life and that of my family's life has been torn apart, our normal income halted. Who is responsible? Who caused this devastation? Who allowed the devastation to continue?

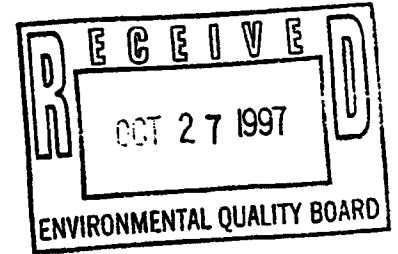
Homeless In Pennsylvania,

ECKERT SEAMANS CHERIN & MELLOTT, LLC

ATTORNEYS AT LAW

97 NOV 10 11:05:56

October 24, 1997



One South Market Sq. Building  
213 Market Street  
Post Office Box 1248  
Harrisburg, PA 17108  
Telephone 717/237-6000  
Facsimile 717/237-6019

**Environmental Quality Board**  
Rachel Carson State Office Building, 15th Flr.  
P. O. Box 8477  
Harrisburg, Pennsylvania 17105-8477

**Re: Regulatory Basics Initiative #3 (Malodors) -  
Proposed Amendments to Chapters 121 and 123  
(Relating to General Provisions; Standards for Contaminants)**

Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal (2)

**Dear Members of the Board:**

This firm represents the Township of Exeter, Berks County, Pennsylvania (the "Township"), in connection with certain environmental concerns which presently exist in the Township. On behalf of the Township, we offer their objection to the evisceration, through the proposed amendments to 25 Pa. Code Ch. 121 and Ch. 123, of any adequate protection from the emission of malodors into the atmosphere. The proposed amendments will, undoubtedly, have such effect.

With respect to the Department's specific request for comments on two aspects of the proposal, each will be addressed *seriatim*.

In documenting whether an odor is "objectionable," the frequency of occurrence must be evaluated on a case-by-case basis. Of course, each citizen complaint must be documented and investigated thoroughly, although such investigation may not necessarily lead to the conclusion that the malodor is "objectionable" and should be documented as such. If, however, upon investigation of even a single complaint, it is determined that the malodor is pungent and severe, certainly such must be documented as being "objectionable."

Considering the extent of public objection, again, such must be evaluated on a case-by-case basis. Certainly, extensive public objection to a malodor must be weighed heavily. It does not necessarily follow, however, that a single objection to a malodor carries no weight. As set forth above, an objection from a single neighbor should give rise to the determination, and subsequent documentation, of an "objectionable" odor under appropriate circumstances, to wit: a pungent odor transgressing the boundaries of the facility. The number of objections or the extent of the public objection is irrelevant as to whether or not the environment has been adversely affected; the Department of Environmental Protection does not make its determinations on water pollution based upon the number of objections, and

- Harrisburg
- Pittsburgh
- Allentown
- Philadelphia
- Boston
- Fort Lauderdale
- Boca Raton
- Miami
- Tallahassee
- Washington, D.C.

CHARLES E. ZALESKI  
717/ 237-6080



October 24, 1997

*Environmental Quality Board  
Page 2*

degradation of the air, whether it be particulate matter or odors, should not be permitted merely because a large number of complaints are absent.

With respect to aspect number two (2), the Township has no position.

Addressing the five-year review period for the "best available technology" ("BAT"), as more fully set forth below, such is inappropriate and unacceptable. The proposed amendment would sanction the emission of malodors into the atmosphere and outside the boundaries of a facility for a five-year period and allow the offending facility to hide behind the facade that it is employing the "best available technology" to control such malodors. As more fully set forth below, the five-year period discourages research and development into alternative means of odor control where the existing BAT is ineffective, misallocates resources, and subjects families and communities to noxious odors without providing any effective means of recourse.

Although the Department asked that specific comments be addressed to three aspects of the proposed amendments, the Township is also compelled to comment on, generally, the adverse consequences to communities which will result if the proposed amendments are adopted in their current form. The proposed amendment to subsection (c) of section 123.31 will disintegrate the protection from malodors which communities are afforded through section 123.31(b). The Township urges the Department and the Board to consider the wisdom and necessity of such action.

As the Board is aware, 25 Pa. Code §123.31(b) prohibits the emission into the atmosphere of any malodorous air contaminants from any source "in such a manner that the malodors are detectable outside the property of the person in whose land the source is being operated." In other words, residents of a community should not be subject to noxious odors introduced into the atmosphere by others. Such provision encourages and attempts to achieve the laudable goal that families in the community should be able to enjoy the same. The proposed amendment, however, shatters the foregoing.

The proposed amendment sanctions the emission of malodors into the atmosphere and allows an offending facility to disrupt the enjoyment of surrounding communities by hiding behind the facade that it is employing the "best available technology" to address malodors. The proposed amendment in no way encourages an offending facility to seek alternatives to the means of odor control being employed if the implementation of the "best available technology" is ineffective. To the contrary, "research and development" is discouraged. The proposed amendment permits the offending facility to claim that it is employing the "best available technology" to



ECKERT SEAMANS CHERLIN & MELLOTT

ATTORNEYS AT LAW

October 24, 1997

*Environmental Quality Board*  
*Page 3*

address the malodors and, thereafter, to emit malodors for a five-year period without taking any means to explore alternatives to the issue. Only after residents of a community have been subject to such noxious odors for a five-year period will, pursuant to the amendment, the Department examine whether it should require a new determination of implementation of "best available technology" for such noxious odors. The proposed amendment does not set forth any time parameters in which the Department has to make such determination. Additionally, the proposed amendment is silent as to whom will be making the determination as to the "best available technology" for the control of malodors. Of course, if such responsibility is left with the facility, common sense dictates that there will be little incentive on the part of the offending facility to incur costs and resources associated with a thorough examination of whether alternative and more effective odor controls are available and whether the facility should alter its current operation to implement such technology.

On the other hand, it should be noted that the definition of "best available technology" reflects that such is determined by the Department. See 25 Pa. Code §121.1. If such definition of BAT is applied to the proposed amendments, the Department would then be strapped with the financial responsibility of exploring more effective means of odor control than that currently being employed. Although such a responsibility by the Department is proper and non-objectionable, an offending facility should also be required to employ resources to help alleviate the Department's costs by examining alternatives to existing technology which may not effectively control malodors. The proposed amendment, in essence, however, relieves a facility from public and legal accountability as to the emission of malodors beyond its boundaries, as well as relieving the offending facility from financial responsibility for the same.

In light of the foregoing, it is acknowledged that the proposed amendment, as set forth in the preamble, should reduce compliance costs for an offending facility. Greater costs, however, will be borne by the public. It is imperative to recognize that, in many cases, the offending facilities are forced upon the residents of a community who have lived in that community for many years. In many situations, individuals have purchased homes, started families, raised children, and have actively supported their communities, only to one day be told that a landfill or a sewage treatment plant will be located in "their backyard." Although it is recognized that, in many instances, such facilities are necessary, every step should be taken to alleviate any concerns and ensure that residents can continue to enjoy their communities and that communities can continue to grow. The proposed amendments do not alleviate such current concerns but, rather, generate even greater concerns.

October 24, 1997

*Environmental Quality Board  
Page 4*

The preamble to the proposed amendment states that, "[t]his provision creates "certainty" for both the public and facility operations concerning the extent of responsibility for emissions and malodorous air contaminants." The only "certainty" which is created for the public is that if a facility is emitting foul odors such will be sanctioned for a five-year period. The "certainty" for the facility is that the facility can continue to operate "as is" for a five-year period before it will be required to review, at the Department's discretion, whether alternative means of odor control should be employed; such is unacceptable.

Exeter Township has been experiencing, first hand, the severe problems and public outcry occasioned by malodors from an existing facility, and has been frustrated by the Department's inability to address or cure the problem under current laws and regulations. The proposed regulations will provide the facility operator with even more excuses and time to continue the present operation. The proposed regulations will be ineffective, will have no beneficial impact on the community and should be thoroughly re-examined and modified before enactment.

Exeter Township strongly encourages the Board to reconsider the wisdom of the proposed amendment to §123.31 and the necessity for the same. Certainly, the implementation of a regulation which erodes those regulations seeking to discourage the emission of malodors which can be detected beyond the borders of the facility by residents of the community must be scrutinized and the propriety of such challenged. Exeter Township respectfully requests that this Board modify the proposed regulations so as to exclude the proposed subparagraph (c) to §123.31 and to modify the other changes to address the Township's very real concerns that are based on actual experience, not theoretical musings.

Respectfully submitted,

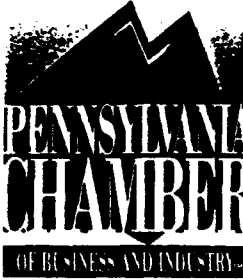


Charles E. Zaleski

CEZ/jr

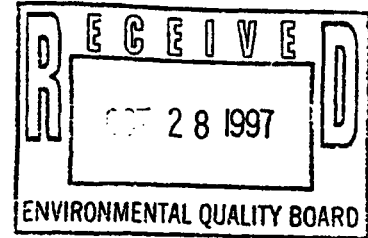
cc: Exeter Township Board of Supervisors  
John A. Hoffert, Esq., Township Solicitor





417 Walnut Street  
Harrisburg, PA 17101-1902  
717 255-3252 / 800 225-7224  
FAX 717 255-3298  
<http://www.pachamber.org>

97 NOV 10 11:11:00



October 27, 1997

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

Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal (2)

Re: Comments on Proposed Regulatory Basics Initiative #3 (Malodors).

Dear Board Members:

Through this letter the Pennsylvania Chamber of Business and Industry (the "Chamber") is submitting comments on the above-referenced proposed regulations, which appeared at 27 Pa. Bulletin 4340-4343 (August 23, 1997). The Chamber is the largest broad-based business association in Pennsylvania. The Chamber represents the full range of Pennsylvania industrial and commercial enterprises, encompassing over 5,600 members which employ about 50 percent of Pennsylvania's private work force (about 1.5 million employees) and total about \$500 billion in annual sales.

The Chamber offers the following comments:

1. The proposed definition of malodor should be revised slightly to read at the end "...to be an odor which is objectionable to the public." This change helps ensure, for example, that a malodor is actionable as such where it in fact creates a public nuisance, i.e., (1) extending beyond the property of the facility in question, and (2) affecting a meaningful portion of the community and not necessarily only the subjective sensibilities of a single individual. What constitutes "the public" should not be uniformly defined, but rather should be subject to case-by-case evaluation under the particular relevant circumstances.

2. Similarly, we believe that the Department should retain discretion as to whether and what kind of odor investigation to initiate based upon, for example, the complaint and facility in question, the basis offered for the complaint, or

the Department's track record for dealing with a particular complainant or facility on malodor issues. To presume such discretion, the proposed definition of "malodor" could be changed to "An objectionable odor which is first identified by the public...."

3. We do not believe it is feasible to prescribe a uniform method for how the Department should evaluate frequency of occurrence and extent of public objection. Given the inherently subjective nature of malodor, these evaluations are better made on a case-by-case basis, and should also consider duration and magnitude in determining whether any Department response is necessary.

4. We believe that it is appropriate to address malodors by requiring the application of appropriate control technology, and to provide for case-by-case determination of appropriate technology as an alternative to the incineration or equivalent control "limitations" imposed under 25 Pa. Code §123.31(a). We also support the concept of providing certainty through a pre-defined period within which further controls will not be required, as a reasonable way to balance environmental considerations and costs. However, we believe that §123.31 should not require the use of "best available technology", which is typically a requirement imposed during the construction of a new or modified facility during which emissions typically are otherwise increasing. Instead, we believe that use of technology which meets "reasonably available control technology ("RACT") requirements typically imposed on retrofits of existing sources is a more appropriate and conventional standard to use in balancing technological, environmental and cost considerations. Of course, in that context the Department should be prepared to consider pollution prevention or source reduction techniques as alternatives to add-on controls in evaluating appropriate odor reduction technologies.

Finally, we believe the Department should consider deleting § 123.31(a) from the regulations entirely to avoid the inference that incineration as described therein constitutes presumptively appropriate technology. As proposed, § 123.31(c) would allow and anticipate the consideration of incineration as appropriate control technology, but calls for the decision to be made case-by-case "notwithstanding subsections (a) and (b)." It is not clear why incineration should be singled out as an odor reduction technology, especially since subsection (a) only specifies operating parameters rather than performance standards for odor control.

5. We strongly advocate that as part of this rulemaking, the Environmental Quality Board and the Department take the steps necessary to remove odor limitations from Pennsylvania's approved State Implementation Plan ("SIP"). To our knowledge, Pennsylvania is the only state whose SIP addresses malodors. Any links between controlling malodors and attaining National Ambient Air Quality Standards ("NAAQS") for ozone or any other air contaminant, if indeed any exists, is coincidental. There are any number of other regulatory mechanisms which address NAAQS attainment more directly and effectively. Including odor limitations in Pennsylvania SIP federalizes an issue which the Federal Clean Air Act does not address. Such a SIP provision thus runs afoul of Section 4.2 of Pennsylvania's Air Pollution Control Act, which authorizes in implementing NAAQS attainment programs only those requirements reasonably required to achieve and maintain NAAQS. The odor limitations should be eliminated from Pennsylvania's SIP.

Thank you for the opportunity to submit these comments.

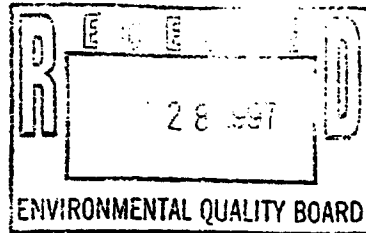
Sincerely,

A handwritten signature in black ink that reads "Fred A. Sembach". The signature is written in a cursive style with a large, stylized "F" and "S".

**Fred A. Sembach**  
**Vice President,**  
**Government Affairs**

*Thomas G. Taylor*

Original: 1877  
Copies: Tyrrell  
Sandusky  
Legal (2)



**118 Second Street  
Allenport, PA 15412  
(412) 326-4781  
E-mail: locutus@dp.net**

October 23, 1997

Environmental Quality Board  
PO Box 8477  
Harrisburg, PA 17105-8477

**RE: Malodors**

Dear Sir:

I am writing in response to an article that I recently read concerning the state's Regulatory Basics Initiative and the proposed changes to that initiative. These changes include: changing the definition of Malodor, changing the way the Department of Environmental Protection responds to odor complaints, limiting the types of odors regulated, and exempting industries from installing "Best Available Technology" for a period of 5 years.

I live in Allenport, Pennsylvania, a small community approximately 32 miles southwest of Pittsburgh. In September, 1995, a Hazardous Waste Treatment facility (AMROX) went on-line and ever since the residents of Allenport have been suffering. Routinely we are forced to put up with sickening Hydrochloric Acid fumes from the plant and on a few occasions our property has been covered with, and damaged by, iron oxide dust from the plant.

We have called in countless odor complaints to the Pennsylvania DEP, the company has received several fines and NOV's, the plant has failed it's main stack tests and yet it continues to operate while the residents of Allenport suffer. We have even had the DEP's Air Monitoring truck in town, on three separate occasions, and I understand that their instruments have picked-up Hydrochloric Acid readings on each visit. Despite all of this, they continue to operate.

Before the plant went on-line we were able to sit in our yards on a warm summer afternoon without any worries, now we have to check the wind conditions and which way the main stack is blowing before we can go outside. On several occasions we have had to go inside because the Hydrochloric Acid odor was so bad that it burned out throats and irritated our eyes.

According to several of the DEP officials that I have spoken to, the plant can only receive a NOV's (Notice of Violation) for odors if someone from the DEP is actually present during the odor incident and they (the DEP official) actually smell the odor. The problem is, that by the time the call is placed and someone responds, the wind has shifted and the smell is no longer

RECEIVED  
NOV 16 10:11:01  
1997

around. Can't you see that what is being proposed is a mistake? The proposed changes will benefit the businesses while sticking it to the communities that suffer from the odor emissions.

Daily, the residents of Allenport have to live with the sickening odors that are being released from that plant, and you want to change the definition for Malodor, WHY? If you feel the need to do something, make the definition even tougher, especially when a plant is allowed to be built as close to a community as AMROX is built to Allenport. The AMROX plant (a Hazardous Waste Treatment facility) was allowed to be built less than 150 feet from the community's playground, which is another problem that I have with some of the DEP's regulations, but I will address that at another time.

The plant is already getting away with something by being allowed to operate despite the fact that they have failed their main stack tests and they have not qualified for their operating permit. At what point do we say ENOUGH? When do we start to look out for the residents of the communities affected by plants that are allowed to emit malodors? Why do you want to continue to allow plants to emit malodors and then just look the other way?

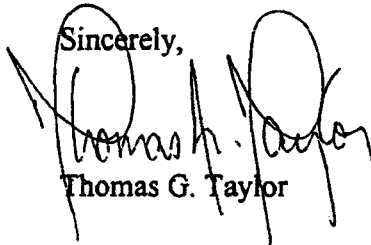
I am sure the "business" argument will be made, that we need to do this to "attract" industry to Pennsylvania. But what about the people? Why not protect the people as aggressively as we do the environment? Why not protect the people as aggressively as we seek to attract industries to Pennsylvania?

I urge you to seriously consider what you are thinking of doing, consider the ramifications of what your actions, consider what the residents that live in the shadows of these plants have to live with.

Enclosed you will find a petition, signed by the residents of Allenport that are most directly affected by the malodors emitted from the AMROX plant, asking you NOT to approve the proposed changes.

If you need any additional information, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas G. Taylor". The signature is written in a cursive style with a large initial "T".

Thomas G. Taylor

Enclosure

We, the undersigned residents of Allenport, Pennsylvania, ask that the Environmental Quality Board and the Pennsylvania Legislature reject the proposed changes to the state's odor regulations. These changes include redefining the term Malodor, changing the way the Pennsylvania Department of Environmental Protection responds to odor complaints and exempting industries from installing "Best Available Technology" for a period of 5 years. The proposed changes would also limit the type of odors that are regulated.

We see the proposed changes as weakening the state's regulations, allowing industries to continue to pollute without any ramifications, meanwhile the residents in the shadows of the industries will continue to suffer.

<u>Name</u>	<u>Address</u>	<u>Date</u>
<u>Helen Farguhar</u>	<u>116 2nd St Allenport Pa</u>	<u>10-21-97</u>
<u>Merle Farguhar</u>	<u>116 2nd St Allenport Pa</u>	<u>10-21-97</u>
<u>Jeff Tuda</u>	<u>115 2nd ST Allenport PA.</u>	<u>10-21-97</u>
<u>Cornie Schauss</u>	<u>113 2nd St Allenport PA</u>	<u>10-21-97</u>
<u>Jandy Gray</u>	<u>123 2nd St Allenport</u>	<u>10-21-97</u>
<u>John B. Gray</u>	<u>123 Secma St. Allenport</u>	<u>10-21-97</u>
<u>Blanche Kuharic</u>	<u>108 First St Allenport, Pa.</u>	<u>10-21-97</u>
<u>Minetta Farguhar</u>	<u>112 2nd ST Allenport Pa.</u>	<u>10-21-97</u>
<u>Karen Taylor</u>	<u>118 Second St Allenport, Pa.</u>	<u>10-21-97</u>
<u>Robert Schauss</u>	<u>117 RIVERVIEW ST ALLENPORT PA</u>	<u>10-21-97</u>
<u>Carl Schauss</u>	<u>113 2nd St Allenport PA</u>	<u>10-21-97</u>
<u>Fran Celaschi</u>	<u>111 Riverview St Allenport Pa</u>	<u>10-21-97</u>
<u>Ally Farguhar</u>	<u>124 Second St Allenport</u>	<u>10-21-97</u>
<u>Marnie Palamara</u>	<u>122 Second St Allenport</u>	<u>10-21-97</u>
<u>George Palamara</u>	<u>122 Second St. Allenport PA.</u>	<u>10-21-97</u>
<u>Edmund Bourdette</u>	<u>107 First St. allenport, Pa.</u>	<u>10/21/97</u>
<u>Grace Shannon</u>	<u>110 Riverview St Allenport Pa</u>	<u>10/21/97</u>

