

ORIGINAL: 2535



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June 28, 2006

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The Honorable Kathleen A. McGinty
Environmental Quality Board
Pennsylvania Department of Environmental Quality
P.O. Box 8477,
Harrisburg, PA 17105-8477

INDEPENDENT REGULATORY
REVIEW COMMISSION

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RECEIVED

RE: Comments in regards to Nonattainment New Source Review (NSR), #7-399 (#2535).

Dear Ms. McGinty:

ConocoPhillips appreciates the opportunity to submit comments on the proposed changes to Environmental Quality Board's regulations addressing Nonattainment New Source Review (25 PA. CODE CHS. 121 AND 127). ConocoPhillips owns and operates facilities in Pennsylvania, including a petroleum refinery in Trainer, Delaware County, Pennsylvania. These facilities have the potential to be significantly impacted by the proposed changes to these rules.

ConocoPhillips primary concerns with the proposed rule changes are two fold. First, we are concerned that Pennsylvania seems to support the value of the 8-hour ozone standard versus the 1-hour ozone standard, but is unwilling to accept the implementation program proposed by EPA. EPA has designated Delaware County, among others, as moderate nonattainment for the 8 hour standard. This moderate nonattainment designation denotes specific requirements and attainment deadlines. The proposed rule implies that the Environmental Quality Board feels that the moderate nonattainment designation is inappropriate and the severe nonattainment designation of the revoked 1-hour standard should have been maintained in that the majority of the requirements for a severe nonattainment area are proposed for the 8-hour designation. The solution to this situation is not to propose a state rule inconsistent with the federal requirements, which these proposed changes would do. Instead, there is a straight forward methodology in the Clean Air Act that allows states such as Pennsylvania to request that EPA redesignate an area to higher classification, in this case from moderate to severe. Such a reclassification would accomplish many of the things that the Environmental Quality Board is attempting to do with these proposed changes, such as mandate more stringent offset ratios for new projects, continued application of reasonably available control technologies and more inclusive definitions of major sources. With this approach, the Pennsylvania and EPA requirements would be quite similar. This would be an improvement to the regulated community without in any way compromising air quality.

Our second area of concern relates to the impact the proposed changes would have on our ability to continue to efficiently and effectively operate our existing assets. EPA recognized that the operations of industrial facilities are subject to both market forces and maintenance forces that may cause short-term historical operational rates to not be representative of the true abilities of facilities. In response to this, EPA felt that a 10-year "look back" period was appropriate to provide a true and valid way of establishing baseline emissions. In a 10-year period, most operations would have experienced most of the market situations that would impact production levels, and by extension, emission levels, and also would have undergone one or more major maintenance periods, or turnarounds, which could affect production. By shortening the "look back" window to 5 years, it is possible that one or more of these routine cycles would be missed, thereby skewing the true capability of our operations. The Environmental Quality Board also proposes significant changes to the design of the Plantwide Applicability Limit (PAL) such that it becomes much less attractive as a compliance option for the regulated community. The concept of a PAL was that

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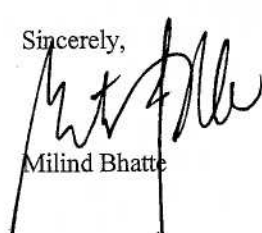
such a permitting regime accounted for and controlled emission levels to an appropriately protective level. Once these were established for a particular facility, the operational flexibility could be maintained so long as the levels in the PAL were not exceeded. The Environmental Quality Board's proposal does away with most of this flexibility, therefore making this approach significantly less useful to the regulated community.

ConocoPhillips understands the need for the Environmental Quality Board to implement an improved NSR program. However, we feel that the proposal currently under review unnecessarily conflicts with the federal program and the programs of other states in similar situations to Pennsylvania. We feel the proposal is unnecessarily burdensome to the regulated community and will not provide for a more timely attainment of the 8-hour ozone standard than the EPA program. ConocoPhillips suggests that:

1. Pennsylvania consider a request to the EPA to bump up the status of the Philadelphia area from moderate nonattainment to severe nonattainment, thereby implementing the mandates associated with such a redesignation
2. Maintain the "look back" period for establishing the baseline emissions at 10 years to account for normal cycles in facility operations.
3. Allow 10 year PAL's with a fixed emission limitation
4. Maintain a provision for demand growth exclusion
5. To the maximum extent possible, make the Pennsylvania program consistent with the programs in other states and EPA Regions

We feel that the changes we are suggesting will allow Pennsylvania to be competitive while at the same time protect and enhance the quality of the air and permit the timely attainment of the 8-hour ozone standard.

Sincerely,



Milind Bhatte