

MEETING
BEFORE THE
CALIFORNIA AIR RESOURCES BOARD

ORIGINAL

HEARING ROOM
CALIFORNIA AIR RESOURCES BOARD
2020 L STREET
SACRAMENTO, CALIFORNIA

THURSDAY, NOVEMBER 16, 1995

9:40 A.M.

Nadine J. Parks
Shorthand Reporter

MEMBERS PRESENT

John D. Dunlap, III, Chairman

Eugene A. Boston, M.D.

Joseph C. Calhoun

Lynne T. Edgerton

M. Patricia Hilligoss

John S. Lagarias

Jack C. Parnell

Barbara Riordan

Ron Roberts

James W. Silva

Doug Vagim

Staff:

Jim Boyd, Executive Officer

Tom Cackette, Chief Deputy Executive Officer

Mike Scheible, Deputy Executive Officer

Michael Kenny, Chief Counsel

Terry McGuire, Chief, Technical Support Division

Rich Bradley, Chief, Air Quality Data Branch, TSD

Debbie Popejoy, Manager, Air Quality Analysis Section

Marci Nystrom, Staff TSD

Judy Tracy, Staff Counsel

Peter Venturini, Chief, Stationary Source Division

Dean Simeroth, Chief, Criteria Pollutants Branch, SSD

Gary Yee, Manager, Industrial Section, SSD

Jim Aguila, Staff, Stationary Source Division

Kathleen Walsh, Staff Counsel, Office of Legal Affairs

Ed Wong, Staff, Stationary Source Division

Genevieve Shiroma, Chief, Air Quality Measures Branch, SSD

Bob Jenne, Staff Counsel

Bob Cross, Assistant Chief, Mobile Source Division

Sue DeWitt, Staff, MSD North

Edith Chang, MSD North

Catherine Lentz, MSD North

Karen Irwin, MSD North

Patricia Hutchens, Board Secretary

Wendy Grandchamp, Secretary

Bill Valdez, Administrative Services Division

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1 before we move on the item?

2 All right. Will the Board Secretary please call
3 the roll.

4 MS. HUTCHENS: Boston?

5 DR. BOSTON: Yes.

6 MS. HUTCHENS: Calhoun

7 MR. CALHOUN: Aye.

8 MS. HUTCHENS: Edgerton?

9 Hilligoss?

10 MAYOR HILLIGOSS: Aye.

11 MS. HUTCHENS: Lagarias?

12 MR. LAGARIAS: Aye.

13 MS. HUTCHENS: Parnell?

14 MR. PARNELL: Aye.

15 MS. HUTCHENS: Riordan?

16 SUPERVISOR RIORDAN: Aye.

17 MS. HUTCHENS: Roberts?

18 SUPERVISOR ROBERTS: Aye.

19 MS. HUTCHENS: Silva?

20 SUPERVISOR SILVA: Aye.

21 MS. HUTCHENS: Vagim?

22 SUPERVISOR VAGIM: Aye.

23 MS. HUTCHENS: Chairman Dunlap?

24 CHAIRMAN DUNLAP: Aye.

25 MS. HUTCHENS: Passes 10-0.

1 CHAIRMAN DUNLAP: Thank you.

2 The second item on the agenda -- why don't I give
3 staff a moment to change places. I'll give some brief
4 opening comments while we're setting up for this item.

5 Jim, my compliments to the staff on that rather
6 involved presentation. Good job. Lot of material there.

7 MR. BOYD: thank you, Mr. Chairman. Appreciate
8 it.

9 CHAIRMAN DUNLAP: The second item on the agenda
10 today is 95-12-2, a public hearing to consider amendments to
11 the gasoline deposit control additive regulation.

12 In 1990, the Board adopted a regulation requiring
13 that all commercial California gasoline contain deposit
14 control additives. At the 1990 Board hearing, staff showed
15 that when deposits form on critical areas of port fuel
16 injectors and intake valves, vehicles may experience a
17 significant degradation in performance and a corresponding
18 increase in vehicle emissions.

19 To implement the regulation, ARB staff established
20 an administrative process to certify gasoline additives.
21 Under the current process, gasoline formulations are
22 certified once an applicant demonstrates that the additized
23 gasoline is effective in reducing and preventing the buildup
24 of deposits on port fuel injectors and intake valves.

25 An enforcement procedure was also established to

1 ensure compliance with the per-gallon standard specified by
2 the reg. Currently, compliance with the regulation is
3 monitored by auditing daily records which are kept at
4 additive facilities.

5 Since the implementation of the additive
6 regulation over three years ago, staff has approved over 200
7 applications for certification and has conducted two
8 separate field audits of virtually all additive facilities
9 throughout our State.

10 Based on the experience gained through evaluating
11 applications, along with information learned during field
12 audits, the staff is now proposing several housekeeping
13 amendments to the deposit control additive regulation.
14 These proposed amendments will enhance implementation of the
15 regulation and provide more operational flexibility, without
16 compromising its environmental benefits.

17 And, at this point, I'd like to ask Mr. Boyd to
18 introduce the item and begin his staff's presentation. Jim?

19 MR. BOYD: Thank you, Mr. Chairman. Well, as you
20 indicated, today, we are proposing several so-called
21 housekeeping amendments to update and to improve the current
22 deposit control additive regulation.

23 Our proposals do not reflect any fundamental
24 changes to the regulation. It will not affect significantly
25 how we evaluate certification applications.

1 The proposed amendments are intended to improve
2 the overall clarity and specificity of the regulation, to
3 provide additional operational flexibility, and to provide
4 consistency with presumed future federal requirements.

5 As the Chairman mentioned, the staff proposal
6 preserves the environmental benefits and integrity of the
7 regulation.

8 To provide clarity, we propose to modify the
9 requirements for certification test fuel formulations by
10 providing criteria that applicants can follow to develop
11 their test fuels.

12 We also propose to clarify other provisions of the
13 regulation which have been misunderstood, if not
14 misinterpreted, in the past.

15 And to provide operational flexibility, we propose
16 to add a provision for manual correction of additive dosage.
17 This will allow additive facilities to so-call manually
18 correct, under certain conditions, underadditized gasoline
19 shipments which have been dispatched to a service station.

20 I'm not sure we haven't created a new word here,
21 "additized." But, nonetheless, we and the staff have been
22 struggling with this for weeks, and we just can't come up
23 with a better descriptor.

24 We propose, also, to provide consistency with the
25 vehicle test procedures that will likely be contained in the

1 U.S. EPA final gasoline additive regulations they're
2 developing.

3 These test procedures reflect updated and more
4 precise versions of the original test procedures that were
5 adopted in our regulation.

6 With that, at this time, I'd like to introduce Mr.
7 Jim Aguila of the Stationary Source Division who will give
8 you the staff's presentation.

9 MR. AGUILA: Thank you, Mr. Boyd.

10 Good morning, Mr. Chairman and members of the
11 Board. As mentioned in the introduction, we are proposing
12 general housekeeping changes to the gasoline additive
13 regulation.

14 The proposed amendments will make the gasoline
15 additive certification program, which was established by the
16 regulation, easier to understand and easier to administer.

17 I will briefly discuss the background of the
18 regulation to lay the framework for today's proposal, then
19 I'll discuss our proposal.

20 In September of 1990, the Board adopted a gasoline
21 deposit control additive regulation to ensure that all
22 commercial motor vehicle gasoline would contain effective
23 deposit control additives to maintain clean fuel systems.

24 Maintaining clean port fuel injectors and intake
25 valves allow vehicles to operate as they were designed to.

1 Staff also found that significant emissions reductions in
2 NOx, carbon monoxide, and hydrocarbon emissions could be
3 realized by cleaning up the fuel systems of the California
4 fleet that have accumulated deposits, and thereby avoid the
5 excess emissions caused by the port fuel injector and intake
6 valve deposits.

7 As this slide shows, port fuel injector deposits
8 can seriously degrade an injector's spray pattern, which
9 affects the combustion of the fuel. As deposits form on
10 port fuel injectors, the air/fuel ratio of the combustion
11 mixture is affected, resulting in improper combustion of the
12 fuel and increases in carbon monoxide, hydrocarbon, and NOx
13 emissions.

14 Deposits also form at critical areas of the intake
15 valve as well. When deposits build on the intake valve, an
16 airflow restriction to the combustion chamber occurs. This
17 results in leaning the air/fuel ratio in the cylinder during
18 combustion and causing an increase in NOx emissions.

19 This slide also shows how deposits form on intake
20 valves.

21 As presented by staff in the original rulemaking,
22 the major benefit of the additive regulation is to ensure
23 that all vehicles maintain clean fuel systems and thereby
24 operate as designed.

25 Staff also found that by removing deposits that

1 have already accumulated in vehicle fuel systems excess
2 emissions can be reduced. This slide shows the emissions
3 reductions associated with the original implementation of
4 the additive regulation.

5 Today, since the U.S. EPA does not have a clean-up
6 requirement, California will realize an additional benefit
7 of cleaning deposits from out-of-State vehicles that are
8 operated in California.

9 The regulation adopted by the Board establishes a
10 program requiring all commercial gasoline to contain
11 effective deposit control additives.

12 To be certified, an applicant must submit an
13 application demonstrating additive effectiveness on a
14 worst-case, deposit-forming commercial gasoline. The
15 application must also include general information, such as
16 additive name, composition, minimum additive dosage
17 concentration, EPA registration, and vehicle test data.

18 The vehicle test data must show that the additive
19 concentration is effective in keeping port fuel injectors
20 and intake valves clean from deposits.

21 The vehicle test data must also show that the
22 additive concentration is effective in cleaning port fuel
23 injector deposits to a specified level.

24 As mentioned earlier, this requirement provides
25 assurance that vehicle fuel systems have deposits -- that

1 have deposits will be cleaned.

2 Finally, the regulation also requires additive
3 facilities to maintain records indicating the volume of
4 gasoline sold as well as the amount of additive used.

5 To date, we have approved over 230 applications
6 for gasoline certification. We have also developed
7 procedures for certification review and enforcement to help
8 administer the additive program.

9 Our implementation of the additive program has
10 been effective in ensuring that all commercial gasoline
11 contains effective deposit control additives. However, we
12 have identified several elements of the additive program
13 that can be improved to facilitate the application process
14 and our issuance of certifications.

15 Today, we are proposing three specific amendments
16 as well as other minor amendments.

17 Changes are proposed to the criteria for
18 certification test fuels and additive evaluation test
19 methods. And, as I will explain later, we will be proposing
20 to delay the recordkeeping requirements.

21 Comments were made during the 45-day comment
22 period. We are proposing changes today to address these
23 comments.

24 I will discuss the changes during the
25 presentation. These proposed modifications are available to

1 you in your package and to the audience on the table in the
2 lobby.

3 The amendments, which staff will propose today,
4 are intended to simplify the additive program certification
5 process and to enhance compliance with the regulation.

6 Since the amendments do not represent any
7 significant departure from the current program, the benefits
8 of the additive regulation are maintained.

9 Most applicants request gasoline certification for
10 the maximum pipeline specifications, which are the most
11 fungible specifications. To determine that their additives
12 are effective, applicants typically will conduct vehicle
13 tests on a primary certification fuel in conjunction with
14 supplemental test fuels that, together, represent the
15 maximum pipeline specifications.

16 This assortment of motor vehicle tests on several
17 fuels is cumbersome for applicants. We are proposing to
18 simplify the process by specifying definitive criteria for
19 certification fuels, thereby minimizing the need for
20 supplemental data.

21 Also, we propose to allow some flexibility by
22 allowing certain certification test fuel properties to be at
23 least 80 percent of the requested values. These properties
24 include aromatics, olefins, sulfur, and oxygen contents.

25 This flexibility recognizes the difficulty in

1 blending a single certification test fuel to an exact set of
2 specifications.

3 For other gasoline properties, we propose that
4 those properties be formulated to represent typical
5 commercial motor vehicle gasoline. We also propose that
6 certification test fuels be formulated from typical gasoline
7 blendstocks.

8 To address industry's comments made during the 45-
9 day comment period to further clarify the criteria for
10 formulation of certification test fuels, we propose to
11 revise the original regulatory text as indicated on page 4
12 of Attachment A of the resolution before you.

13 The changes are identified by shading additions
14 and deletions to the text.

15 Whereas, in the past, the current regulatory
16 provisions have led to some degree of confusion, we believe
17 that these amendments will minimize any uncertainty for
18 applicants by being more specific. These amendments also
19 provide flexibility for providing a blending tolerance.

20 Initially, we propose to include clarifying
21 language in the regulation to address potential
22 misunderstanding concerning recordkeeping requirements.
23 However, we agree with industry comments made during the
24 45-day comment period to delay any action on the proposed
25 recordkeeping amendments until the U.S. EPA promulgates

1 their final rule in the spring of 1996.

2 This will allow us to consider how the U.S. EPA
3 regulation will apply to California and avoid potential
4 regulatory duplication.

5 When the Board adopted the additive regulation in
6 1990, the test methods referenced in the regulation to
7 evaluate port fuel injector and intake valve deposits were
8 the most generally accepted at that time.

9 Since then, the American Society for Testing and
10 Materials, better known as ASTM, has updated the test
11 procedures to incorporate improved quality control.
12 Therefore, we propose to amend our keep-clean test methods
13 to be consistent with these updated methods.

14 We also propose to revise our clean-up test method
15 to incorporate the ASTM test method.

16 Since the EPA proposes to require the use of the
17 latest ATSM test methods in their final additive regulation,
18 our proposed amendments will provide consistency with the
19 anticipated EPA vehicle testing requirements.

20 Since the newer test methods have better quality
21 control, we expect that the use of the newer test methods
22 may reduce invalid test runs.

23 Under the current provisions, all gasoline must be
24 additized prior to leaving the final distribution facility.
25 The final distribution facility is defined in the regulation

1 as the facility just prior to the service station, such as a
2 gasoline bulk terminal.

3 At our July 20th workshop, industry suggested that
4 it would be advantageous to provide the flexibility to
5 manually additize gasoline loads after the final
6 distribution facility. This would allow a facility to
7 correct any underadditized gasoline that has left the
8 gasoline terminal.

9 We agreed with this concept and proposed a
10 provision to allow manual additization with appropriate
11 documentation. Providing additional flexibility will not
12 result in any detrimental environmental impacts.

13 Originally, our proposal only allowed manual
14 correction up to the point of delivery. However, we have
15 now modified our proposal to allow manual correction up to
16 the point of retail sales of motor vehicle gasoline.

17 To add further clarity, we propose to make minor
18 changes to address previously misunderstood terms. We also
19 propose to add specificity to the regulation by requiring
20 applicants to provide the reproducibility of the additive
21 test method which they identify in their applications.

22 We also propose to require applicants to report
23 the minimum dosage of their additive on a volume basis
24 within their certification applications.

25 In summary, staff is proposing to the Board today

1 a series of amendments which will add clarity, specificity,
2 and flexibility to the regulation.

3 Also, while maintaining the current benefits of
4 the regulation, these amendments will provide consistency
5 with future EPA gasoline additive requirements.

6 Staff intends to evaluate the U.S. EPA final
7 deposit control additive regulation and determine the need
8 to recommend further adjustments to our regulation.

9 Thank you for your consideration. This concludes
10 the staff's presentation. And, at this time, I'd like to
11 introduce Gary Yee, Manager of the Industrial Section of the
12 Stationary Source Division, to provide a summary of the
13 comment letters received during the 45-day comment period.

14 MR. YEE: Thank you, Jim.

15 Basically, we've received four letters -- can you
16 hear me now? (Adjusting microphone)

17 Basically, we received four written responses from
18 companies in regards to the proposed amendments during the
19 45-day comment period.

20 One of the letters I will not be summarizing.
21 This letter is from the Western States Petroleum
22 Association, and I believe they will be making a
23 presentation today on their letter.

24 Three other letters are from Kern Oil Company, the
25 Atlantic Richfield Company, and Chevron.

1 Basically, all three letters pertain to the
2 recordkeeping requirements that we proposed in our original
3 staff recommendations.

4 Their basic recommendations were basically
5 twofold: One was either be consistent with EPA's interim
6 regulations dealing with recordkeeping or to delay our --
7 any action today until EPA comes up with their final
8 regulations on the additive requirements.

9 As you heard in our presentation today, we have --
10 we basically agree with these comments, and we have proposed
11 to delay any action on recordkeeping.

12 Essentially, that is it. And those are the
13 comments that were presented.

14 Thank you.

15 CHAIRMAN DUNLAP: Okay. Any questions from my
16 colleagues on the Board of staff?

17 Dr. Boston.

18 DR. BOSTON: With the advent of our new cleaner
19 burning California gasoline, do these additives create a new
20 set of problems for that gasoline? Or what is the additive
21 usually that's used, and does it cause more air pollution
22 when it's used?

23 MR. SIMEROTH: I'm sorry, Dr. Boston. I missed
24 the last part of your question.

25 DR. BOSTON: Our new reformulated gasoline, which

1 we're now calling California clean-burning gasoline, does it
2 cause any problem when you add the additives to clean the
3 valves and the injectors to that fuel? And does the
4 additive, whatever it is, create more air pollution?

5 MR. SIMEROTH: Dr. Boston, at the moment, the
6 additives don't seem to cause any problems based on. Nissan
7 ran a test program where they specifically looked at the
8 issue; tore an engine apart after accumulating 30,000 miles
9 on it, and the -- their California reformulated gasoline
10 they used as a test fuel with additives had less deposits
11 than the conventional gasoline with the deposit control
12 additives.

13 One of the things we expect to happen as soon the
14 industry starts producing the cleaner-burning gasoline, and
15 knows what the parameters are for their specific gasolines,
16 they'll come back in and apply for certification of new
17 deposit control additive packages, primarily to lower the
18 dosage rates.

19 And by being cleaner burning, there's not a -- I
20 shouldn't say "not." We do not expect the need to have as
21 much deposit control additives needed in the future as are
22 needed now. And industry will take advantage of that and
23 save themselves some money.

24 CHAIRMAN DUNLAP: Okay. Any other questions?

25 MR. CALHOUN: One quick question.

1 CHAIRMAN DUNLAP: Mr. Calhoun.

2 MR. CALHOUN: How do you enforce the additive
3 regulation?

4 MR. SIMEROTH: Primarily, it's been through the
5 recordkeeping requirements that industry maintains at each
6 terminal facility where the additives are injected. They
7 show the amount of gallons dispensed. They identify the
8 additive and its approval number and the rate of additizing
9 the additive, summarize -- at the present time, mostly
10 monthly, although a number of the terminal operators
11 maintain daily records to ensure they're not getting
12 themselves in trouble.

13 MR. CALHOUN: Do we ever take any samples, though?

14 MR. SIMEROTH: At the present time, we haven't
15 been analyzing for the presence of it. We've been doing it
16 primarily off the records.

17 MR. CALHOUN: All right.

18 CHAIRMAN DUNLAP: Any other questions? Is that
19 it?

20 DR. BOSTON: Is that a verb or an adverb,
21 "additize"?

22 CHAIRMAN DUNLAP: Additize? I don't know, but it
23 definitely caught my attention.

24 (Laughter.)

25 CHAIRMAN DUNLAP: We have one witness. Could I

1 have the witness come forward? Mr. Smith, Steven Smith,
2 from WSPA.

3 If there's anyone else that wishes to speak on
4 this item, please see the Board Secretary.

5 Good morning, Mr. Smith.

6 MR. SMITH: Good morning. Thank you.

7 Good morning, Mr. Chair and members of the Board.
8 My name is Steven Smith. I'm the Senior Fuels Planning
9 Engineer for 76 Products Company, which is an operating
10 group of Unocal in Los Angeles.

11 My remarks today will be on behalf of the Western
12 States Petroleum Association. And in light of some of the
13 proposals that staff has already explained, I will be
14 modifying and shortening my testimony significantly to focus
15 on the areas only where WSPA has a few concerns.

16 And I believe copies of my oral testimony should
17 be passed out to you this morning.

18 We applaud staff's goal, with these amendments, of
19 fine-tuning the existing regulation to provide additional
20 clarity and flexibility and to provide consistency with
21 anticipated future federal deposit control additive
22 regulation changes that we should be seeing, hopefully, in
23 early 1996.

24 The majority of staff's proposed changes, we
25 agree, are in line with these goals and, as a result, we

1 support many and, in fact, most of staff's proposed
2 amendment changes.

3 So, I'll focus just on those areas, like I said,
4 where we have concerns, and those are in three areas.

5 First, WSPA proposes that no changes be made to
6 CARB's current monthly recordkeeping requirements. And, as
7 staff explained, it sounds like they plan to hold that as an
8 amendment change this morning.

9 I'll just offer a few -- maybe a few supporting
10 comments. The current requirement that each producer,
11 importer, and distributor compile records for each grade of
12 gasoline on a monthly basis we feel is appropriate and
13 consistent with current EPA requirements. We do not feel
14 that daily recordkeeping -- additive recordkeeping -- is
15 justified or appropriate for the following reasons:

16 Our resources at this time are primarily
17 dedicated, as I'm sure most of you can guess, to various
18 aspects of the California Phase 2 reformulated gasoline
19 rollout. That's our primary task over the next three to six
20 months.

21 We're concerned that, to ensure compliance with
22 all of the various enforcement issues that could accompany
23 new recordkeeping requirements, that that would pull
24 resources away from our main objective, which is the rollout
25 of Phase 2 gasoline.

1 So, we urge CARB to allow us to continue working
2 on this Phase 2 rollout effort without any unnecessary
3 diversions.

4 We also support the overall goal to achieve
5 consistency between CARB and EPA additive regulations where
6 justified. So, to this end, as staff explained, we
7 recommend that CARB delay changes to its additive regulation
8 until EPA comes out with its amended regulation -- we hope
9 in the next six months.

10 And based on our current information, at least,
11 it's unlikely that the final EPA proposal --

12 CHAIRMAN DUNLAP: Mr. Smith, on that point, let me
13 be clear. So, you're asking us to withhold action to follow
14 a federal lead six months from now? Is that right?

15 MR. SMITH: Correct.

16 CHAIRMAN DUNLAP: Okay.

17 MR. SMITH: And that's consistent --

18 CHAIRMAN DUNLAP: May I interrupt for a moment?

19 Staff, are we -- Mr. Boyd, are we involved in the
20 deliberative, technical, evaluative process that U.S. EPA's
21 going through in their effort?

22 MR. BOYD: I'll let Mr. Simeroth respond.

23 MR. SIMEROTH: Chairman Dunlap, we're following
24 what EPA is doing, and we're having phone conversations back
25 and forth on their activity.

1 CHAIRMAN DUNLAP: Okay. I'm going to ask you
2 about what does it mean to us to delay when he's through.
3 So, be thinking about how we respond to that.

4 MR. SIMEROTH: Okay.

5 CHAIRMAN DUNLAP: Please continue, sir.

6 MR. SMITH: All right. Thank you.

7 That was the second point. And the third point
8 is, we feel -- at least at this time -- that there are no
9 demonstrable environmental benefits that are associated with
10 switching from monthly to daily recordkeeping requirements.
11 We don't feel like those environmental benefits have been
12 clearly defined to any degree.

13 That was my comment regarding recordkeeping, and
14 is in support, again, of staff pulling that issue from the
15 table today.

16 A second topic -- we propose that CARB add a
17 liability protection provision to the State regulation that
18 is similar to that exists in the federal regulations. And
19 we've offered specific language in our written comments that
20 we've provided to the staff.

21 In general, this provision would protect the
22 company from additive liability in certain circumstances if
23 they can demonstrate that they had an adequate contract and
24 proper oversight with a downstream company that they give
25 the gasoline product to for additization by that downstream

1 party. And that exists -- that liability protection exists
2 currently in EPA regulations, and we'd like to see something
3 similar to that included in the State regulation.

4 That was our second (sic) primary concern.

5 Finally, our third concern -- we propose a few
6 minor, very minor, changes to language regarding
7 certifications, additive certifications, that companies are
8 required to obtain from CARB, like Mr. Aguila explained.

9 Staff has clarified in Section 2257 amendments the
10 properties of the certification test fuel that they would
11 like to see in most cases, and has added language requiring
12 that a demonstration be provided that the test fuel is
13 produced from typical refinery blendstocks.

14 We support these requirements. That makes good
15 sense to us. That's very clear and direct.

16 However, staff has added language requiring the
17 companies provide a demonstration that the test fuel is
18 representative of typical commercial gasoline. And we feel
19 that this reference is very ambiguous and could be subject
20 to wide interpretation by industry and staff, because
21 "typical" commercial gasoline can vary widely in its
22 properties.

23 So, we request that the staff delete this
24 reference and add language specifically stating what they're
25 really looking for. A simple clarification is what we ask

1 for.

2 CHAIRMAN DUNLAP: Do you have suggested language?

3 MR. SMITH: We'd like to talk with staff about
4 really what additional properties they're interested in
5 besides sulfur, aromatics, olefins, oxygen, and T90. And if
6 they have interest in additional properties, we'd like to
7 see them specify that.

8 We view this certification issue as very important
9 for the following reasons. New certifications should be --
10 must be capable of transportation system fungibility of a
11 pipeline and distribution system, and should be applicable
12 to any gasoline meeting Phase 2 reformulated gasoline
13 requirements.

14 And any overspecification of the certification
15 fuel requirements could lead to divergence in certification
16 ranges for individual companies, and that's our concern. It
17 could impact system fungibility, reduce exchange capability,
18 and, at a worst case, impact the rollout of Phase 2, which
19 none of us want.

20 And, obviously, we consider a smooth rollout of
21 Phase 2 reformulated gasoline our highest priority over the
22 next year, like I stated earlier. So, as a result, we just
23 recommend that staff remove that more vague requirement and
24 add more specific language.

25 CHAIRMAN DUNLAP: Okay.

1 MR. SMITH: So, that concludes my comments.

2 CHAIRMAN DUNLAP: Thank you.

3 MR. SMITH: Be pleased to answer questions.

4 CHAIRMAN DUNLAP: Don't leave. Mr. Parnell.

5 MR. PARNELL: Mr. Kenny, can we, as a matter -- if
6 we were of a mind to, can we grant immunity for liability to
7 downstream blenders as they suggest? Have you read their
8 language?

9 MR. KENNY: I have actually looked at their
10 language. And the concern I would have with the language is
11 that what it effectively does is essentially move the
12 refiners out of being subject to the additive regulation.

13 And what the refiners would essentially be doing
14 is contracting out their liability under the additive
15 regulation to some third party.

16 The concern for the Board, I think, in terms of
17 trying to do enforcement, was that, as we were doing the
18 enforcement, we would end up basically getting into a
19 contractual review as opposed to an additive review.

20 It seems to me that the company could essentially
21 insulate itself from the concern that it has by simply
22 engaging in an indemnity agreement with the downstream
23 companies that it's contracted with for the additization.

24 MR. PARNELL: Rather than deal with the
25 regulation.

1 MR. KENNY: Exactly.

2 MR. PARNELL: The second question, if I may. Do
3 the words, "representative of typical commercial gasoline"
4 cause heartburn in terms of future interpretation? That
5 seems fairly straightaway to me, and I just would be
6 interested in your comments.

7 MR. KENNY: I actually don't have a good response
8 to that. Let me turn that over to Mr. Simeroth. I think he
9 can respond to that better.

10 MR. SIMEROTH: Mr. Parnell, what it means to me is
11 that you comply with ATSM specifications for gasoline. I'd
12 also like to point out that that basic requirement has been
13 there since Day One of the regulation, and we've issued over
14 200 certifications with that requirement in the language
15 with really no problems at all.

16 It's meant to help us ensure that somebody doesn't
17 "gage" the fuel and give us something that doesn't represent
18 what they're actually going to be selling.

19 CHAIRMAN DUNLAP: State slowly what you interpret
20 that to mean so our friend from WSPA can get that down, so
21 there's no unusual take on it, Dean.

22 MS. SIMEROTH: Basically, what it means to us is
23 that you comply with the general ASTM specifications for
24 gasoline. And it's a requirement that has been in the
25 regulation since Day One of the regulation -- January 1st,

1 '92. We've issued well over 200 certifications with that
2 requirement in the regulation.

3 CHAIRMAN DUNLAP: Mr. Smith, does that pin it down
4 for you?

5 MR. SMITH: We would acceptable (sic) to including
6 that reference to ASTM requirements in the regulation, and
7 removing the statement of "typical commercial gasoline."

8 MR. SIMEROTH: Chairman Dunlap, in the proposed
9 amendments, we're proposing a sentence to help clarify this
10 requirement already.

11 CHAIRMAN DUNLAP: Okay.

12 MR. SIMEROTH: It's already before you.

13 CHAIRMAN DUNLAP: All right. Could I -- Mr.
14 Parnell, did you have anything else?

15 Could I get you to respond to his initial question
16 about the six-month delay pending U.S. EPA action?

17 MR. SIMEROTH: EPA was supposed to have acted last
18 June. We're hearing another six months. We think that the
19 changes will help facilitate the new certifications we see
20 coming with the introduction of California reformulated
21 gasoline, and it would have some benefit to having them in
22 place when that rollout occurs.

23 Now, the recordkeeping, we recognize that there is
24 merit to waiting to see if we can avoid duplicate
25 recordkeeping requirements. That has merit, and we are

1 proposing to delay that till EPA comes out with their
2 regulation.

3 CHAIRMAN DUNLAP: Okay. what about the
4 recordkeeping issue? Mr. Smith, can you expand on that a
5 little bit? We're tightening down recordkeeping here?

6 MR. SMITH: Currently in the regulation, as staff
7 would probably agree, there are references to -- that all
8 gasoline be properly additized. And there's also reference
9 to monthly recordkeeping requirements.

10 And staff has taken the interpretation -- and some
11 of our companies agree -- that that means daily
12 recordkeeping is required, and that means every gallon of
13 gasoline needs to be properly additized. But the regulation
14 is really not clear.

15 Some companies have viewed that one way, some
16 companies have viewed it another. And, in all honesty, we
17 don't -- at this point, we aren't convinced that there's
18 environmental justification for tight daily recordkeeping
19 versus monthly.

20 So, EPA's going to clarify that, from their point
21 of view, with their proposed change. And we just would
22 suggest that staff wait and see where EPA starts.

23 CHAIRMAN DUNLAP: I'd like a comment about
24 recordkeeping. But let me just perhaps remind staff of a
25 point of philosophy that I've espoused a number of times

1 about administrative requirements that don't lead us to any
2 environmental benefit.

3 And if this is the case, I have a real problem
4 with tightening some administrative or recordkeeping
5 requirements that just, you know, is paper pushing. So, if
6 that isn't the case, please speak up; but, if it is, we need
7 to talk about making some changes in what we have before us.

8 Mr. Simeroth?

9 MR. SIMEROTH: Chairman Dunlap, one of the reasons
10 for proposing the delay and see what EPA comes out with is
11 to make sure we don't end up with unnecessary recordkeeping.
12 The regulation's basic tenet -- as was correctly described
13 by Mr. Smith -- was that our intention was that every single
14 gallon be properly additized.

15 Our view of the language, while it's more vague
16 than it should have been, was that meant that you keep
17 records showing that each day, for a 24-hour period, that
18 the gasoline that left a terminal would be properly
19 additized.

20 There are differences of opinions on how much
21 gasoline is necessary to cause in a vehicle. But reviewing
22 the certification data, some vehicles are susceptible --
23 more susceptible than others to having problems develop;
24 gasoline does not have a nice, neat pattern of distribution
25 and can get a concentrated amount of gasoline to cause

1 problems.

2 CHAIRMAN DUNLAP: Right. And we want to tie that
3 down. But characterize for me how much tracking or
4 recordkeeping you think is reasonable in what we have before
5 us.

6 MR. SIMEROTH: Okay. I think what we view as
7 reasonable is that, on a daily basis, a terminal operator
8 knows how much additive he's putting in and knows if he's
9 underadditizing -- using that word again, excuse me -- of
10 putting too much additive in. And we really don't want
11 either one. Either one can cause problems.

12 Underadditizing results in deposits forming in
13 vehicles and an inherent increase in emissions associated
14 with that. Overadditizing can also cause problems,
15 particularly in the combustion chamber of the engine; too
16 much additive lets deposits form there.

17 CHAIRMAN DUNLAP: So, it's keeping total volumes
18 essentially --

19 MR. SIMEROTH: (Interjecting) To maintain balance
20 so you don't go too far either way.

21 CHAIRMAN DUNLAP: Okay. But not a gallon-by-
22 gallon --

23 MR. SIMEROTH: No.

24 CHAIRMAN DUNLAP: -- accounting in any way?

25 MR. SIMEROTH: We're not requiring that at all.

1 You look at the total number of gallons coming out of a
2 terminal on a day, and that's millions of gallons --

3 CHAIRMAN DUNLAP: Okay.

4 MR. SIMEROTH: -- and total amount of additive,
5 and there's a balance.

6 CHAIRMAN DUNLAP: All right. Again, just a
7 reminder, you know, administrative requirements that don't
8 get us anywhere is not something that I support. And I
9 certainly know my Board colleagues won't as well.

10 MR. BOYD: Mr. Chairman, let me --

11 CHAIRMAN DUNLAP: Sure.

12 MR. BOYD: -- let me assure you that we're
13 sensitive to that; that is, that guides us. This is an area
14 where we've discussed it significantly. This is a complex
15 area. In some areas -- I just happened to be at a refinery
16 a couple days ago where, you know, this is totally
17 automated. There are tanks of secret formulas for each and
18 every different petroleum company standing to be added by,
19 you know, a computerized input, et cetera et cetera.

20 And it seems that that isn't too difficult. But,
21 as pointed out, gasoline emissions are inherently sensitive
22 to that particular issue. We are engaged in a couple of
23 very substantial enforcement settlements, as you know, at
24 this very moment over an issue very similar to this. That
25 is the dilemma of finding substantial amounts of gasoline

1 without the proper additive.

2 So, we're sensitive to our charge to protect
3 public health and our charge to worry about cost to the
4 industry. And this is an area where we could see no, at
5 present, reasonable way out of the woods.

6 If working with EPA gives us a better view in the
7 future and we find mutually a better approach, certainly,
8 we'll be sensitive to that.

9 CHAIRMAN DUNLAP: And that could emerge back here
10 at the Board level, right?

11 MR. BOYD: Yes.

12 CHAIRMAN DUNLAP: Okay. Very good. Thank you for
13 your patience. Any other questions of our witness or staff?

14 Mr. Silva.

15 SUPERVISOR SILVA: Actually, I have questions.
16 The first one has to do with recordkeeping. How long do we
17 currently require these records to be maintained?

18 MR. SIMEROTH: At the present time, it's two
19 years.

20 SUPERVISOR SILVA: Two years.

21 MR. SIMEROTH: Yes. And I believe EPA has a
22 longer time period that they require the records be
23 maintained.

24 SUPERVISOR SILVA: Mr. Smith, the Consumer Union,
25 auto engineers, and oil companies have debated the additive

1 issue, I think, for a long time -- whether it's, you know,
2 good, bad, or it's just throwing money away.

3 In your professional opinion, what do you think?

4 MR. SMITH: Well, I guess I'll speak on behalf of
5 WSPA. I think WSPA generally supports the additive program.
6 For one thing, obviously it's required by Federal rules.
7 And I think we support it -- as staff stated earlier, I
8 think the new, cleaner gasoline that's coming out
9 potentially is going to require less additive to be fully
10 effective.

11 The new, cleaner gasoline -- much lower olefins,
12 much lower aromatics, all of those -- the reductions in
13 those properties is making the gasoline a lot less likely to
14 form additives (sic), so --

15 SUPERVISOR SILVA: So, a person who would drive,
16 let's say, a fuel-injected car wouldn't have to buy the
17 additives to pour into his fuel with this new gasoline.

18 MR. SMITH: I'll speak personally.

19 (Laughter.)

20 MR. SMITH: I don't think those will be necessary.
21 I think the cleaner gasoline, coupled with the detergent
22 requirements should be more than adequate.

23 SUPERVISOR SILVA: I'd like to ask Mr. Boyd the
24 same question.

25 MR. BOYD: Well, Supervisor Silva, my reaction is

1 that, one, history has shown the additives are beneficial.
2 Number two, the free market economy that we operate in has
3 allowed the petroleum companies to make this a marketing
4 issue and to have their own, as I said earlier, secret
5 formulas, and to compete with each other as to whose is the
6 best and the best buy, which gives the consumer a choice of
7 fuels.

8 And, number three, I agree with all that's said
9 with regard to tomorrow's cleaner-burning gasoline. There
10 has been a general consensus that it's likely that they'll
11 be able to scale back on the quantities of additives that
12 they use. But, again, it's going to be by choice.

13 And there's always those who choose to have
14 allegedly a little better, if not actually a little more, to
15 try to reap a market benefit in advertising, if nothing
16 else.

17 SUPERVISOR SILVA: Okay. Thank you very much.
18 Thank you, Mr. Smith.

19 CHAIRMAN DUNLAP: Anything else? Very good. Mr.
20 Smith, thanks again.

21 Okay. Mr. Boyd, I assume there's nothing else?

22 MR. BOYD: I believe we have a couple more letters
23 to put in the record.

24 CHAIRMAN DUNLAP: Okay.

25 MR. VENTURINI: Yes, Mr. Chairman, there were two

1 additional letters that just came in, and I'll ask Mr. Yee
2 to briefly summarize those for the record.

3 MR. YEE: The first letter is from 76 Products
4 Company. Basically, they support our updating of the ATSM
5 methodology, and also support the general housekeeping
6 requirements or clarifications that we are proposing.

7 They have reiterated concern about the
8 recordkeeping requirements, and their recommendation is to
9 delay any action on that.

10 Again, the concerns with the certification test
11 fuels, as Mr. Smith has discussed, in regards to clarifying
12 what we mean "typical" production gasoline -- they have
13 asked to clarify that, and staff has done that.

14 The second letter is from the American Automobile
15 Manufacturers Association. They have generally supported
16 all of the proposed amendments that staff are making today.
17 They have made one added recommendation that we consider a
18 combustion chamber deposit standard for which EPA is now
19 considering and will be developing, I guess. And that's
20 beyond the scope of today's hearing.

21 CHAIRMAN DUNLAP: Is that it?

22 MR. YEE: That's it.

23 CHAIRMAN DUNLAP: Okay. Very good. I will now
24 close the record on this agenda item. However, the record
25 will be reopened when the 15-day notice of public

1 availability is issued. Written or oral comments received
2 any this hearing date but before the 15-day notice is issued
3 will not be accepted as part of the official record on this
4 agenda item.

5 When the record is reopened for the 15-day comment
6 period, the public may submit written comments on the
7 proposed changes, which will be considered and responded to
8 in the final statement of reasons for the regulation.

9 Again, another reminder to the Board about ex
10 parte communication. Is there anything that needs to be
11 disclosed?

12 (There was no response.)

13 CHAIRMAN DUNLAP: Okay. Thank you.

14 We have before us a resolution, 95-47, which
15 contains the staff recommendation. Why don't we take a
16 moment or so to review it. Some of you may have already
17 looked at it.

18 MR. LAGARIAS: Mr. Chairman?

19 CHAIRMAN DUNLAP: Mr. Lagarias.

20 MR. LAGARIAS: I'd like to have an understanding.
21 If I were to add additional comments to this dialogue, would
22 I be "additizing," or would that be --

23 (Laughter.)

24 CHAIRMAN DUNLAP: We would have to defer to Mr.
25 Kenny about that the "additizing" element of this discourse.

1 MR. KENNY: You would be additizing.

2 (Laughter.)

3 MR. LAGARIAS: I do not wish to additize.

4 CHAIRMAN DUNLAP: Thank you, Mr. Kenny.

5 They coined a new phrase. A few years ago, it was
6 "incentivized."

7 Okay. Do we have a motion? Mr. Calhoun.

8 MR. CALHOUN: I move we adopt Resolution 95-47.

9 CHAIRMAN DUNLAP: Mr. Calhoun, thank you. Is
10 there a second?

11 SUPERVISOR SILVA: Second.

12 CHAIRMAN DUNLAP: Okay. Mr. Silva seconds the
13 motion. Any discussion that needs to occur before the Board
14 Secretary calls the roll?

15 Okay. Pat?

16 MS. HUTCHENS: Boston?

17 DR. BOSTON: Yes.

18 MS. HUTCHENS: Calhoun?

19 MR. CALHOUN: Aye.

20 MS. HUTCHENS: Edgerton?

21 MS. EDGERTON: Aye.

22 MS. HUTCHENS: Hilligoss?

23 MAYOR HILLIGOSS: Aye.

24 MS. HUTCHENS: Lagarias?

25 MR. LAGARIAS: Aye.

1 MS. HUTCHENS: Parnell?

2 MR. PARNELL: Aye.

3 MS. HUTCHENS: Riordan?

4 SUPERVISOR RIORDAN: Aye.

5 MS. HUTCHENS: Roberts?

6 SUPERVISOR ROBERTS: Aye.

7 MS. HUTCHENS: Silva?

8 SUPERVISOR SILVA: Aye.

9 MS. HUTCHENS: Vagin?

10 SUPERVISOR VAGIM: Aye.

11 MS. HUTCHENS: Chairman Dunlap.

12 CHAIRMAN DUNLAP: Aye.

13 MS. HUTCHENS: Passes 11-0.

14 CHAIRMAN DUNLAP: Very good. Thank you.

15 The third item on the agenda today -- well, let me
16 excuse staff again. Thank you. Fine presentation.
17 Appreciate your time and energy.

18 Oh, one thing, while you're changing places, while
19 I have Mr. Venturini there, I'd like to maybe make a comment
20 or two about a project he worked on, and ask the staff
21 presenting the next item to please come forward.

22 On November 3rd, President Clinton formally
23 announced at the White House eight projects that have been
24 accepted to participate in a pilot environmental program
25 known as "Project XL," for "excellence in leadership."

