

State of California

MEMORANDUM

To : Craig Tarpenning
Senior Staff Counsel
Office of Administrative Law


W. Thomas Jennings
Senior Staff Counsel

From : Air Resources Board

Date: September 28, 1994

Re: Regulatory Action No.: 94-0915-06S
Public Hearing to Consider Proposed Amendments to the Small Refiner
Volume Provisions in the Regulation Limiting the Aromatic Hydrocarbon
Content of California Motor Vehicle Diesel Fuel

Pursuant to your request, I am forwarding the reference documents listed as number 19 of the reference list in the above-referenced rulemaking record. Copies of these documents were inadvertently omitted from the rulemaking record transmitted to the Office of Administrative Law.

Additionally, I am submitting a supplement to the Final Statement of Reasons, which summarizes and responds to two additional comments.

Thank you for your assistance in this matter. Please call me at 322-2884 if you have any further questions.

Attachments

State of California
AIR RESOURCES BOARD

September 28, 1994

Supplement to the Final Statement of Reasons for Rulemaking
(Amendments to Small Refiner Volume Limits for the Fourth Quarter of 1994)

PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE SMALL REFINER VOLUME PROVISIONS IN THE REGULATION LIMITING THE AROMATIC HYDROCARBON CONTENT OF CALIFORNIA MOTOR VEHICLE DIESEL FUEL

Public Hearing Date: July 29, 1994

Agenda Item No: 94-7-3

The following summaries of comments and the agency responses are added as a supplement to the Final Statement of Reasons filed with the Office of Administrative Law on September 15, 1994.

13. Comment: The Air Resources Board (ARB) staff has estimated it will cost small refiners an average of 7.5 cents per gallon to produce diesel fuel meeting the requirements for a 20 percent aromatic hydrocarbon content or the equivalent. It's not clear to us what that was based on. If it's based on investment and modifying the facilities that they have, it's quite likely that the cost would be much lower if they chose a route of using a certification. The cost of manufacture becomes substantially less. (Texaco)

Agency Response: The estimate applies to the small refiners' cost to meet both the sulfur content limit and the aromatic hydrocarbon content limit for motor vehicle diesel fuel; these standards were adopted together in the 1988-1989 rulemaking. The estimate is based on the assumption that small refiners will comply with the aromatic hydrocarbon requirements through use of a certified alternative formulation equivalent to the small refiners' 20 percent standard. The 7.5 cents per gallon figure was derived from information from the small refiners on their completed and future capital expenditures, their periodic costs for operating the capital equipment, and the costs of enough cetane improver to provide the cetane numbers that they anticipated would be part of their alternative

formulations. The method for arriving at the cost estimate is described in the 1988 technical support document for the original rulemaking (Reference No. 4).

14. Comment: The staff apparently concurs with the small refiners that the cost for small refiners to produce a certified alternative formulation equivalent to a 20 percent aromatic hydrocarbon content diesel fuel would be 7.5 cents per gallon, versus 6 cents per gallon for the majors. The market is giving us back about 4 cents per gallon right now, so if the 6 cents is right, somebody is really taking it in the shorts. (Chevron)

The 1.5 cents per gallon differential between the 7.5 and 6 cents per gallon figures has shrunk from a much larger differential identified in the 1988 rulemaking. We wonder how real the 1.5 cents per gallon really is. We heard a Texaco representative say his costs are not out of line with the 7.5 cents per gallon. It sounds like the small refiners are able to produce a 20 percent alternative at pretty close to the same cost as majors. I don't see any reason why they need more incentive. (Chevron)

The staff has estimated that compliance with the diesel aromatics regulation costs large refiners an average of about 6 cents per gallon. We're not familiar with the details behind that figure, but from Texaco's position, we would argue that our number is substantially higher than that, and have provided staff with that position in many meetings over the course of the last year or more. (Texaco)

Agency Response: The origin of the estimate for the small refiners' costs is described in the response to the previous comment. The basis of the estimate of the large refiners' average cost is information received from several large refiners on the capital actually expended and the periodic costs actually incurred in complying with both the sulfur and aromatic regulations. The method for arriving at the cost estimate is described in the 1988 technical support document for the original rulemaking.

The 7.5 and 6 cents per gallon figures represent respectively the estimated average costs of small refiners to meet the 20 percent or equivalent aromatic hydrocarbon content standard, and the estimated average costs of large refiners to meet the 10 percent or equivalent aromatic hydrocarbon content standard. The differential is not very different from the estimates in the 1988 staff report prepared in the original rulemaking. On pages 53-55 of that staff report, the staff estimated that, with all refiners meeting the 500 parts per million sulfur content standard, the cost for small refiners to additionally meet a 20 percent aromatic hydrocarbon content standard by blending (estimated at 12 cents per gallon) would be roughly equal to the cost of large refiners to meet the 10 percent aromatic hydrocarbon standard (estimated at 11 cents per gallon).

The estimated per gallon cost for small refiners to produce an alternative formulation of diesel fuel equivalent to a 10 percent aromatic hydrocarbon product would be considerably higher than for large refiners to produce the same fuel. The extra cost would be due to the higher capital cost per unit of capacity for the small processing units that would be installed by the small refiners.

Uncertainty about the precise differential between the costs of small and large refiners to comply with the regulations is not particularly important. What is important is that the cost for small refiners to comply with the 20 percent or equivalent aromatic hydrocarbon content standard is not expected to be any lower than the costs for large refiners to meet the 10 percent or equivalent standard. We acknowledge that some large refiners are likely to have compliance costs greater than 7.5 cents per gallon. However, as long as the average costs among the large refiners does not exceed the small refiners' costs, the regulation does not unfairly favor the small refiners.