

Appendix C

Transcript of Individuals Testifying at Hearings

Publication Number: 09-02-008c

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Hearing January 14, 2009

Lucinda Penn: I'm Lucinda Penn, I'm representing Tank Farms from Hanford.

My first statement is regarding the establishment of threshold values equal to zero for diethyl and dimethyl mercury. This presents field implementation challenges and compliance and regulatory agency enforcement challenges. It makes it extremely difficult to establish a t-BACT what a t-BACT means, they potentially use a CERCLA or ARARs would be difficult and confusing and permit compliance demonstrations would be difficult. Ecology staff have indicated that zero thresholds were established for these two chemicals because Ecology's extreme hazard policy requires a second tier analysis for any proposed industrial emissions regulated by WAC 173-460.

This is inconstant with Ecology's established methodology for determining toxic air pollutants during the rule revision effort. IE: only those contaminants with appropriate toxicological data in one of three predetermined databases and it is unclear what exactly this extreme hazard policy represents or why these two chemicals among the hundreds of proposed industrial emission chemicals are singled out by this undefined policy.

Finally Ecology's toxic air pollutants priority study publication 802-030 published in November 2008 does not identify either diethyl or dimethyl mercury as one of the 21 priority toxic air pollutants at least 16 of which actually have numerical threshold values identified in WAC 173-460-150.

It is suggested that we establish threshold values for diethyl mercury and dimethyl mercury using appropriate toxicological data from at least one of the three predetermined data basis specified by Ecology for this rule revision effort. If no such toxicological data exists these chemicals should be removed from the list of regulated toxic air pollutants.

If Ecology maintains the zero thresholds are justified for these two chemicals clarify the basis for such a conclusion and provide additional guidance addressing potential regulatory uses of these values, compliance demonstration methodologies and enforcement protocol.

The second comment that I have is that the threshold values for some of the listed toxic air pollutants for instance the nitrosamines are lower than laboratory detection levels, which presents field implementation and enforceability concerns. The suggestion is to provide guidance clarifying how compliance with established toxic air pollutant threshold values can be demonstrated where such values exceed achievable laboratory detection levels. This guidance could be in the form of guidance document as opposed to integration within the rule making.

The third comment I have to propose is that the lower threshold values in WAC 173-460-150 for many regulated toxic air pollutants will result in an increasing number of required second tier reviews. Therefore the existing sequential review process outlined in the proposed and existing regulations IE: the permitting authority performs the first tier review and then Ecology performs the second tier review will have increasing potential to adversely impact project schedules to accommodate permitting timelines that can exceed six months.

When an applicant submits a notice of construction application to the permitting authority for first tier review he or she usually knows whether second tier review will be needed and prepares the second tier petition at that time.

The suggestion or request is to revise the proposed rule language in WAC-173-460-090 as appropriate to allow Ecology to begin review and processing of the second tier petition to the extent possible concurrent with the first tier review by the permitting authority if requested by the applicant.

The fact that we have such low values now and zero for diethyl and dimethyl mercury will automatically throw the Hanford site for the Tank Farms into a second tier and possible third tier review for every modification or new permit that we submit to the Ecology. This means that instead of taking three to six months to get a project started it will take six months to a year potentially. So we are requesting that some of this review time can be performed concurrently in order to streamline the process and save lots and lots of money for the taxpayer. Thank you.

Charles Studer: My name is Charles Studer and I work for Spokane Regional Clean Air Agency and our address is 1101 West College for now in Spokane, Washington.

I have two questions or actually two comments and a concern with the exemptions in 110th. The first, being of the one for abrasive blasting. Originally in the rule that was in the present rule the abrasive blasting this wording was in a section that was called t-BACT for certain categories of a certain categories of air pollution sources and to take that out and just automatically exempt seems to be not in line with what is presently going on, it's not exempt right now. In addition the local agencies do not exempt abrasive blasting facilities so the Department of Ecology is kind of going against the flow of the local agencies.

The second comment I have is on gasoline dispensing facilities. Gasoline dispensing facilities are covered under 173-491 WAC and that rule that specifically says that all gasoline dispensing facilities are to go through new source review. So this puts rule 400 and 491 in a conflict.