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PHASE 2 RFG TRANSITION SUBCOMMITTEE

MEETING SUMMARY - AUGUST 17, 1994

Introduction

On August 17, 1994, Transition Subcommittee held the first of a series of planned meetings. The Transition Subcommittee's discussion leader, Susan Brown, Deputy Division Chief, Planning and Forecasting Division of the California Energy Commission, indicated that the purpose of the Transition Subcommittee is to evaluate supply, demand, distribution and compliance issues related to the implementation of Phase 2 Reformulated Gasoline (RFG). Where appropriate, the subcommittee will discuss with the Phase 2 RFG Advisory Committee possible measures that can be taken to better facilitate a smooth transition to the use of Phase 2 RFG.

Susan Brown began the meeting by briefly introducing herself and several staff members from the Energy Commission and the Air Resources Board. As a revised agenda was distributed, Susan explained the purpose and goals of the subcommittee. It was noted that one of the lessons learned from the recent implementation of ARB's diesel regulation was the need for a phased in compliance schedule. The, Phase 2 RFG compliance schedule adopted by the Air Resources Board requires that RFG be produced by the refineries by March 1, 1996, distributed by bulk terminals by April 15, 1996, and sold at the retail pump by June 1, 1996.

Antitrust

There was a great level of concern expressed regarding the potential for antitrust violations by refiners who participate in this subcommittee. These concerns were directly related to the open discussion and exchange of information regarding company specific production capacity, cost of production, wholesale and retail pricing, and product distribution. Susan indicated that both the CEC and ARB are well aware of the concerns and will be very cautious with the structure and operation of the

subcommittee to avoid questionable activity. Susan also stated that no company specific data would be discussed by the subcommittee. All company specific data will be obtained by an ARB/CEC internal working group. Confidential materials will be handled as required by the California Code of Regulations. Data presented to the subcommittee and made available to the public will be in the form of aggregate or average values.

Susan introduced Dick Light, Deputy Attorney General, California Department of Justice, who was invited to attend this meeting for the very purpose of responding to the antitrust concerns. Mr. Light is an expert in the area of antitrust law and agreed that these concerns were warranted. However, he also indicated that understands the worthwhile nature of the subcommittee's goals and believes that its successful operation is possible if appropriate precautions are employed.

Mission Statement

A draft mission statement (enclosed) was distributed and discussed. The only comment offered was the suggestion that the mission statement be expanded to include the goal of timely implementation of the regulation as it currently exists and that contingency planning should not be addressed by this subcommittee. This comment lead into a brief discussion of variance procedures and whether it was anticipated that procedures would be established as they were during the implementation of the diesel regulation last year. Susan explained that existing procedures are intended to provide relief during unforeseen and unavoidable situations such as force majeure outages. It was further noted that the variance issue would ultimately be an ARB policy determination although there is currently no intention of allowing variances beyond what is provided in existing law.

Presentations

CEC

Tom Glaviano of the CEC presented an overview of the petroleum industry in California and how it may be effected by the Phase 2 RFG regulation (presentation material enclosed) . Tom reviewed all of the various processes and steps necessary to transform crude oil into gasoline at the retail pump. The presentation revealed that there are many areas of this industry

which may be affected by the regulation. It also illustrated the difficult nature of completing a thorough evaluation of the industries' ability to provide Phase 2 RFG to meet the needs of California's motorists. Such an evaluation of the adequacy of supply, inherently must also include an evaluation of demand. Tom's presentation did not identify specific issues or propose any solutions, however, this type of overview was fundamental in the development of the subcommittee's action plan.

Immediately following Tom's presentation the discussion shifted back to antitrust concerns related to any open discussion by the subcommittee of supply and demand issues. Dick Light indicated that even limiting such discussions to dealing with aggregate numbers would not prevent possible claims of antitrust activity. If it could be demonstrated that such discussions had an effect on the market, the subcommittee members may be subjected to antitrust liability. Dick indicated that obtaining company specific production data on a confidential basis, compiling the data and publishing aggregated numbers is permissible. However, competitors having open discussion of any such information is not permissible.

U.S. EPA

Al Mannato, a section chief with U.S. EPA in Washington D.C., gave a presentation regarding the Supply and Distribution Working Group which has been established as part of the implementation of Federal RFG. U.S. EPA has hired a private contractor to perform and publish supply evaluation which will include specific production data. They do not believe there will be a supply problem; they are confident that adequate supply will be available. They are concerned about various distribution issues and regulation interpretation, implementation, and compliance demonstration. Outstanding issues/concerns relate to mixing of off-spec product in the distribution system, trans-mix, certification of import products, blending and refining at import facilities, and the status of refiner's baselines. U.S.EPA will continue to meet and discuss these outstanding issues until resolution has been reached. Summaries of findings regarding these issues and their resolution will be posted on U.S.EPA's electronic bulletin board system as they become available. The final issue they intend on addressing is how to deal with emergency situations.

Santa Fe Pacific Pipeline

Mary Morgan, Director of Product Movement for Santa Fe Pacific Pipeline Partners, gave a presentation detailing the delivery locations and overall operation of their various pipelines located in California (presentation materials enclosed).

ARB

Dean Simeroth, Chief of the Criteria Pollutants Branch, presented a Proposed Action Plan (enclosed) for the Transition Subcommittee. Hard copies of the proposed plan were distributed to everyone present. The action plan delineates the issues to be addressed at each of a series of five subcommittee meetings to be held between now and January 1995 (specific dates will be noticed at a later date). The structure of the plan is such that each meeting will have a general theme, with each theme being addressed in the most advantageous timeframe.

The majority of the materials to be presented at future meetings will be prepared by the ARB/CEC internal working group. ARB and CEC believe one function of the subcommittee is to review the presented materials, including any associated proposed recommendations, for completeness and accuracy. All constructive comments intended to further the subcommittee's progress in meeting the established mission are encouraged and welcome. Determination of data needs and its solicitation will also be the responsibility of the internal working group. The proposed action plan is quite ambitious and successful completion of many tasks will rely on the cooperative efforts of the petroleum industry.

The final presentation of the day was given by Gary Yee, Manager of the Industrial Section (presentation materials enclosed). Gary gave a brief overview of the status of the various California refiners in obtaining the required permits and making the necessary modifications in order to produce Phase 2 RFG. In summary, 10 of 13 major refineries have met all CEQA requirements, 9 refineries have obtained full or partial air permits, and 3 refineries are developing their EIRs. ARB expects the major refineries will be permitted in time to comply with the Phase 2 RFG requirements by specified March 1, 1996 deadline.

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