From: Docket Optical System
To: Advisor's Office, Public; Boyd, Jim; De Leon, Fernando; Geesman, John; Hong, Chester; Kateley, Sue; Nyberg, Michael; Schremp, Gordon
Date: 4/13/2005 9:36:50 AM
Subject: 02-PII-01

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>>> "Jessel, Al (AJJE)" <AJJE@chevrontexaco.com> 04/12/05 6:18 PM >>>

Regarding:

Docket No. 02-PII-01
Petroleum Industry Information
Regulations (PIIRA)
NOTICE OF AVAILABILITY OF
15-DAY LANGUAGE AND HEARING
RE: PIIRA REGULATIONS

ChevronTexaco is a major refiner and marketer of petroleum products in the State of California and as such has a direct interest in this proceeding.

ChevronTexaco objects to the inclusion of proposed §1366(q) (refers to Appendix C Section VII, "Refiner...Flow Diagrams") into TITLE 20. Public Utilities And Energy, Division 2, State Energy Resources Conservation and Development Commission, Chapter 3. Data Collection, Article 3, Petroleum Information Reports.

Despite the authority notation in the "15 Day Strikeout Proposed PIIRA Regulations":

"Authority cited: Section 25354, Public Resources Code",

we can find no reference in Section 25354 that authorizes this requirement.

The Commission may be tempted to look to Section 25354 (f) for such authority:

"(f) The commission may request additional information as necessary to perform its responsibilities under this chapter."

But if this paragraph is viewed so expansively as to encompass refinery flow diagrams and the additional detail required in Appendix C, then this paragraph makes the rest of the statute inoperative since there are no bounds to what can be required from refiners. The Commission must view Section 25354(f) much more narrowly, i.e., to require information pursuant to the specific requirements of the section.

In addition, the Commission's "responsibilities" under Section 25354 do not include the reasons put forth in the "CEC Responses to Comment":

"... Refinery ... flow diagrams and site maps should be readily available for emergency response and public safety purposes... Again, this information should be readily available for emergency response and public safety purposes..." [Italicized for emphasis]

The "responsibilities under this chapter" are found in Section 25350 of the Public Resources Code:

"to enable [the state] to respond to possible shortages, oversupplies, or other disruptions and to assess whether all consumers, including emergency service agencies, state and local government agencies, and agricultural and business consumers of petroleum products have adequate and economic supplies of fuel" and to "develop and administer energy policies that are in the interest of the state's economy and the public's well-being."

Nowhere in this list of responsibilities is any reference to "public safety" or "emergency response". Indeed, such duties are assigned to and expected from emergency services agencies such as local fire departments who have the information they need for such response.

Therefore, on the grounds that the Commission lacks the authority to require submission of the information under proposed §1366(q), ChevronTexaco requests that this particular section not be adopted.

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