

**FILED**

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING**

Terri A. Lorenzon, Director  
Environmental Quality Council

IN THE MATTER OF )  
WYOMING REFINING COMPANY, )  
AIR QUALITY PERMIT NO. MD-433, )

Docket No. 3174-00

**PETITION FOR REVIEW**

Wyoming Refining Company (WRC) petitions the Wyoming Environmental Quality Council (EQC) to review certain decisions of the Department of Environmental Quality (DEQ) Air Quality Division (AQD) in issuing Permit No. MD-433 for modifications at WRC's refinery operation near Newcastle, Wyoming. Pursuant to Chapter I, Section 3(c), Department of Environmental Quality Rules of Practice and Procedure, WRC sets forth the following in support of its petition for review.

1. The name and address of the petitioner is Wyoming Refining Company, 1600 Broadway, Suite 2300, Denver, CO 80202. Legal counsel for WRC is Edward W. Harris, Holland & Hart, 2515 Warren Avenue, Suite 415, Cheyenne, WY 82001. WRC requests a hearing before the EQC on this matter.

2. The permit was issued on January 21, 2000. Copies of the permit, its accompanying "Table I," and AQD's supporting decision document are attached.

3. In Comment 2 of the AQD decision document, AQD stated that, "Given the monitoring and emission tracking requirements of this permit, the Division has removed the [NOx] lb/hr emissions limits from the final permit." Contrary to this statement, however, Condition 9 and Table I of the permit establish a pound per hour limit for NOx for the S-21 stack. The NOx pound per hour limit is unnecessary and

beyond the regulatory authority of AQD. The only applicable NOx standard is an annual ambient standard. To ensure compliance with this standard, AQD imposes a ton per year limit on NOx, and requires monitoring to measure compliance with that limit. There is no short-term (e.g. one-hour or three-hour) standard for NOx, and accordingly, there is neither a regulatory basis nor any practical reason to impose a short-term (i.e. pounds per hour) limit for NOx. The pounds per hour NOx limit should be deleted from Table I.

4. Condition 27 requires WRC to comply with the Maximum Achievable Control Technology (MACT) standards for hazardous air pollutants (HAPs). However, MACT standards apply only to major sources of HAPs, and AQD has no evidence that WRC is a major source of HAPs. Indeed, WRC has submitted proof that it is a minor source of HAPs. In addition, WRC has requested permit conditions which would effectively and legally ensure that WRC remains a minor source of HAPs. Thus, even though WRC is a “natural” minor source of HAPs, it has also made a timely proposal for preventative permit conditions to ensure its status as a “synthetic” minor source of HAPs. As a minor source of HAPs, WRC is not subject to the MACT standards, and AQD’s decision to impose the MACT standards is unlawful. Condition 27 of the permit should be deleted from the permit.

5. Condition 28 requires WRC to implement a leak detection and repair (LDAR) program “equivalent to” the new source performance standard (NSPS) for equipment leaks from refineries. To the extent this condition is a response to WRC’s request for protective permit conditions to ensure WRC’s status as a minor source of HAPs, as mentioned in the previous paragraph, it serves as further proof that Condition

27 is unlawful. If this condition was not imposed in response to WRC's request for protective permit limits, then AQD lacks authority to impose this condition. The NSPS standards do not apply because the proposed changes to the refinery will cause no increase in the emissions rates from the affected units addressed by Condition 28. AQD has ignored WRC's evidence that there will be no increase in emissions because the agency "intuitively" believes there will be increased emissions. See Comment 7, AQD decision document. AQD also seeks to impose this NSPS condition because other Wyoming refineries are subject to it, and AQD wants "to maintain equity between the refineries." It is not equitable to impose the same standards on differently-situated refineries, it is improper for AQD to rely on intuition rather than actual evidence, and it is unlawful for AQD to impose standards that do not legally apply to WRC. Condition 28 should be deleted from the permit.

6. Comment 2 of the AQD decision document states that, "Even though the firing rates for each heater/boiler submitted in the application are not set as limits in the permit, the Division considers them substantive." Under Condition 2 of the permit, "all substantive commitments" contained in the permit application are "enforceable as conditions of the permit." Thus, AQD says on the one hand that firing rates are not permit limits, then on the other hand says that firing rates are substantive commitments and therefore enforceable permit conditions. These conflicting statements should be resolved by recognizing that firing rates are neither substantive commitments nor enforceable permit conditions. To maintain operational flexibility, WRC needs to vary combustion device firing rates. Variations in firing rates are normal and legal, and should be made illegal only if necessary to enforce some environmental standard. In

fact, firing rates can be increased, even beyond a device's nominal capacity, without violating any environmental standard. WRC is already subject to pounds per hour, tons per year, and pounds per MMBtu emissions limits, in addition to PSD permitting requirements. Compliance with these limits and requirements, regardless of firing rates, will ensure that WRC meets all applicable standards. Because limits on firing rates do not serve any practical environmental purpose or contribute to compliance with any legal environmental standard, it should be clarified that firing rates contained in the permit application are neither substantive commitments nor permit conditions.

For these reasons, WRC respectfully requests the EQC to reverse the AQD decisions specified, and either modify the permit accordingly or remand the permit to AQD to be modified in accordance with the EQC decision.

DATED this 17 day of March, 2000.



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ATTORNEYS FOR  
WYOMING REFINING COMPANY

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on this 17th day of March, 2000, in accordance with the requirements of Chapter I, Section 3(b), this PETITION FOR REVIEW was served as follows:

Two copies were directed to and served upon the Chairman of the Environmental Quality Council, Herschler Building, Cheyenne, WY 82002, by registered mail, return receipt requested.

Two copies were directed to and served upon Dennis Hemmer, Director of the Department of Environmental Quality, Herschler Building, Cheyenne, WY 82002, by registered mail, return receipt requested.

Copies of the PETITION FOR REVIEW were also served by hand delivery to the following:

Environmental Quality Council  
Herschler Building, 1<sup>st</sup> Floor West  
Cheyenne, WY 82002

Harold E. Meier  
Senior Assistant Attorney General  
Air Quality Division  
Herschler Building  
Cheyenne, WY 82002

Dan Olson  
Administrator, Air Quality Division  
Herschler Building  
Cheyenne, WY 82002



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