

November 13, 2000

The Honorable Fountain Odom and
The Honorable Pryor Gibson, Co-Chairmen
Environmental Review Commission
General Assembly of North Carolina
Raleigh, North Carolina 27601

Re: Low Sulfur Gasoline

Dear Senator Odom and Representative Gibson:

In April 1999 Governor Jim Hunt proposed a comprehensive and phased Clean Air Plan to reduce air pollution and to attain state and national health-based ambient air quality standards for ozone. Governor Hunt's plan calls for reductions in emissions of ozone-forming nitrogen oxides (NOx) from both vehicles and power plants and industrial boilers.

At the request of Governor Hunt the Environmental Management Commission took decisive action at its October 2000 meeting to substantially reduce emissions of NOx from coal-fired power plants, industrial boilers and other sources.

Governor Hunt recommended and the 1999 General Assembly enacted the Ambient Air Quality Improvement Act of 1999 (SB 953), sponsored by Senator Brad Miller and Representative Joe Hackney, to substantially reduce emissions of NOx from vehicles, primarily by requiring cleaner fuels and vehicle emission tests. Part II of SB 953, GS 119-26.2, requires that gasoline sold or provided for sale in North Carolina after January 1, 2004 must contain no more than 80 parts per million sulfur at any time or no more than 30 parts per million sulfur on average.

After Governor Hunt signed SB 953, the U.S. Environmental Protection Agency adopted national low sulfur gasoline standards similar to North Carolina's standard starting in 2004 but not becoming fully effective until 2006-2009.

SB 953 requires the Governor to determine whether the EPA regulation, when adopted, provides equivalent reductions in sulfur content for gasoline sold in North Carolina. If the Governor determines that the EPA rule is equivalent, then the Governor is to issue an executive order that the EPA rule will regulate sulfur content in gasoline instead of state law.

Governor Hunt and the Department of Environment and Natural Resources (DENR) have determined that while the final EPA regulation does provide for the same numerical sulfur content standards as state law, it does not require that the standards be met in North Carolina. EPA's rules enable petroleum refiners to average sulfur content on a national basis across corporations and refineries. EPA's rules also do not require compliance until 2006 and allow extensions until 2009 through the use of credits for early reductions that may have occurred in other states.

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DENR sought assurances from the petroleum industry that they would meet the requirements of state law in North Carolina. However the industry was unwilling to commit to meeting 30-80 standard in North Carolina or to commit to other measures to reduce air pollution in North Carolina.

Governor Hunt and DENR have therefore determined that the EPA rule does not provide for equivalent reductions in sulfur content for gasoline sold in North Carolina as required by state law and that an executive order is unnecessary. Governor Hunt, DENR and the Environmental Management Commission have included North Carolina's stricter low sulfur gasoline requirement in our plan to comply with EPA's NOx SIP Call. North Carolina submitted its NOx SIP to EPA on October 30, 2000. Credits from our low sulfur gasoline program and our On-Board Diagnostic (OBD) vehicle emission testing program will give our utilities and industries additional time to phase in controls at their boilers. Our low sulfur gasoline requirement will reduce emissions of NOx by 6537 tons in the 2004 and 2005 ozone seasons.

Last August Governor Hunt and BP Amoco announced that BP Amoco would deliver low sulfur premium gasoline at the same price as high sulfur premium gasoline to the Asheville, Charlotte, Triad and Triangle markets – four years before state law requires it.

Georgia and Alabama are also requiring low sulfur gasoline to reduce ozone in the Atlanta and Birmingham metropolitan areas before EPA's rules require it.

DENR strongly supports national rules proposed by EPA to reduce sulfur content in diesel fuel and to require cleaner diesel engines. If the oil industry blocks or delays EPA action to clean up diesel fuel, DENR will recommend working with other states to develop and adopt state laws or rules to reduce sulfur in diesel fuel.

DENR would like to work with the Environmental Review Commission to develop and recommend clean air legislation to the 2001 General Assembly.

Thank you for your consideration.

Sincerely,

Bill Holman

cc: The Honorable Brad Miller
The Honorable Joe Hackney
Dr. David Moreau
Ms. Marion Deerhake