

BEFORE THE ENVIRONMENTAL APPEALS BOARD
OF THE STATE OF DELAWARE

In the Matter of:)	
)	
THE PROPOSED REVISION OF)	INTRODUCTION, THE LAW,
DELAWARE'S STATE)	<u>DECISION, AND ORDER</u>
IMPLEMENTATION PLAN -)	
ORDER NO. 78-A-2)	

INTRODUCTION

1. A hearing was held on Tuesday, December 19, 1978, before the Environmental Appeals Board in the Supreme Court Conference Room, 57 The Green, Dover, Delaware, commencing at 10:00 a.m. to consider an appeal filed by the Delaware Citizens for Clean Air, Inc., a Delaware non-profit corporation and Jacob Kreshtool, an individual appealing Order No. 78-A-2 proposing to revise Delaware's State Implementation Plan.

2. Present at the hearing were Environmental Appeals Board members Phyllis Shabinger, Ray Woodward, Earl Tull, and Clifton H. Hubbard, Jr. together with Wheeler K. Neff, Deputy Attorney General, counsel to the Board.

3. Appearing on behalf of the Department of Natural Resources and Environmental Control were Thomas Smith, Deputy Attorney General and June MacArtor, Deputy Attorney General.

4. Appearing on behalf of Delaware Citizens for Clean Air, Inc. was Jacob Kreshtool, Esquire.

5. Appearing on behalf of Phoenix Steel Corporation was Thomas D. Whittington, Jr., Esquire.

THE LAW

Under the provisions of 7 Del. C. §6608(a), any person whose interest is substantially effected by any action of the Secretary may appeal to the Environmental Appeals Board within twenty (20) days after the Secretary has announced the decision. Appeals of a decision of a Secretary shall be conducted in accordance with 29 Del. C. §6606 and the Regulations promulgated pursuant to §6010. Pursuant to §6008, the Board may affirm, modify, or reverse the decision of the Secretary.

DECISION AND ORDER

In view of the representation made in the record by counsel, there exists no factual basis for modifying or reversing any of the provisions of Order No. 78-A-2.

It is hereby ordered that the Order of the Secretary of the Department of Natural Resources and Environmental Control No. 78-A-2 proposing to revise Delaware's State Implementation Plan is affirmed with the following recommendation.

It is urged that the Secretary review section 8.5 of Exhibit D (Amendment to Regulation XX New Source Performance Standards) to determine the appropriateness of inserting the disjunctive words "either" and "or" to clarify the meaning of the provision.

Phyllis G. Schaefer

Ray K. Woodward

Joseph A. Greenwood

x Chilton H. Hubbard

Joseph B. Nelson 1/12/79

Earl C. Tull 1/12/79

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DATED: January 12, 1979

