

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF AIR AND WASTE MANAGEMENT

Statutory Authority: 7 Delaware Code, Chapter 60, (7 **Del.C.** Ch. 60)
7 **DE Admin. Code** 1142

FINAL

Secretary's Order No. 2009-A-0038

Revision to Section 2 of 7 DE Admin Code 1142 Relating to NO_x Control Technology for Industrial Heaters & Process Boilers at Petroleum Refineries

Date of Issuance: October 14, 2009

Effective Date: November 11, 2009

Background

Under the authority granted to the Secretary of the Department of Natural Resources & Environmental Control ("Secretary") under 7 **Del.C.** §6006 and 29 **Del.C.** Chapter 101, the Secretary enters this Order. This Order concludes a process to revise and repromulgate Section 2 of 7 **DE Admin. Code** 1142 relating to NO_x control technology for industrial heaters and process boilers at petroleum refineries.

Discussion

In July of 2007, Section 2 of 7 **DE Admin. Code** 1142 was adopted to reduce NO_x emissions from industrial heaters and process boilers at petroleum refineries. The Premcor Delaware City Refinery owned by Valero appealed DNREC's July 2007 adoption of Regulation 1142. On or about August 15, 2009, DNREC and Valero finalized a settlement agreement where DNREC agreed to propose for adoption and receive public comment on the adoption of an agreed to version of the regulation. DNREC agreed to adopt the exact language set out in the settlement agreement unless comment from the public persuaded DNREC that these changes should not be made. As set out in the settlement agreement, the proposed version of the regulation is intended to provide for Premcor to implement alternative pollution control projects for the purpose of achieving NO_x emission reductions from boilers at the Delaware City Refinery. These reductions in NO_x emissions are intended to achieve improvements in air quality.

Public Hearing

On September 30, 2009, a public hearing was held on the proposed Section 2 of 7 **DE Admin. Code** 1142. Robert Haynes, a Hearing Officer, presided over the hearing at which public comment was taken. A copy of the transcript of the public hearing is attached hereto as Exhibit A. The Department submitted a copy of the notice of publication in the Delaware Register as DNREC Exhibit 1, a copy of which is also attached to this Order as Exhibit B. DNREC Exhibit 2 consisted of copies of the affidavits of publication for the News Journal, Sunday News Journal and the Delaware State News. A copy of the legal notice mailed to the Department's mailing list was submitted as DNREC Exhibit 3. DNREC Exhibit 4 consisted of a copy of the settlement agreement between DNREC and Premcor. The DNREC representative noted that the proposed regulation does not impact any individuals or small businesses and so Delaware's Regulatory Flexibility Act did not apply to the proposed action.

Robert Wojewodzki, the environmental manager at the Premcor Delaware City Refinery, attended the public hearing. He submitted a letter stating that significant changes at the Refinery were occurring and asking DNREC to reconsider a greater NO_x emissions limit and to adjust the compliance schedule. A review of this short letter indicates that Premcor's suggestions are not supported by sufficient documentation or justification to make any modifications to the proposed regulation at this time. This letter was submitted into the hearing record as Premcor

Exhibit 1.

Findings of Fact & Conclusions of Law

1. A public hearing was held pursuant to 7 **Del.C.** §6006 and 29 **Del.C.** Ch. 101 on September 30, 2009, on the repromulgation and revision of Section 2 of 7 **DE Admin. Code** 1142.
2. Proper notice of the hearing was provided as required by law. This Order describes the public hearing record.
3. No members of the general public attended the hearing or submitted any comments. A representative of Valero on behalf of Premcor's Delaware City Refinery did attend and submitted a letter with comments on the Department's proposed action. The suggestions in Premcor's Exhibit 1 were not supported by sufficient documentation to reasonably justify making any modifications to the proposed regulation at this time.
4. The proposed revisions to the regulation are intended to result in the implementation of pollution control projects for the purpose of achieving improvements in air quality by reducing emissions of NO_x from boilers at the Delaware City Refinery.
5. The record as a whole supports repromulgation and revision of the Regulations as published in the *Delaware Register of Regulations* and as attached hereto as Exhibit B.

Order

Based on the record identified and discussed in this Order, **IT IS HEREBY ORDERED** that the proposed Section 2 of 7 **DE Admin. Code** 1142 is adopted in the form attached hereto as Exhibit B.

Reasons

The record supports repromulgation and revision of Section 2 of 7 **DE Admin. Code** 1142. This action will resolve a pending appeal of the existing version of the regulation and is intended to achieve reductions in NO_x emissions and air quality. Thus, the promulgation of Section 2 of 7 **DE Admin. Code** 1142 will further the policies and purposes of 7 **Del.C.** Chapter 60, which require DNREC to conserve and protect our air resources.

Collin P. O'Mara
Secretary

1142 Specific Emission Control Requirements

12/12/2001

1.0 Control of NO_x Emissions from Industrial Boilers

1.1 Purpose

New Castle County and Kent County are part of the Philadelphia-Wilmington-Trenton 1-hour ozone non-attainment area. All areas of Delaware impact this non-attainment area. On December 19, 1999, the EPA identified an emission reduction "shortfall" associated with this non-attainment area. Promulgation of 1.0 of this regulation is one measure that the Department is taking to mitigate this shortfall.

In determining the applicability of 1.0 of this regulation, the Department attempted to minimize the impact on facilities that recently installed NO_x controls under 7 **DE Admin. Code** 1112 (NO_x RACT) and 7 **DE Admin. Code** 1137/1139 (NO_x Budget Trading Program). The Department did this by regulating only large sources that, as of the effective date of 1.0 of this regulation, emitted NO_x at a rate greater than the rate identified in Table 3-1 of 7 **DE Admin. Code** 1112, were not equipped with NO_x emission control technology, and were not subject to the requirements of 7 **DE Admin. Code** 1139. In effect, 1.0 of this regulation regulates sources that remain high NO_x emitters after the application of RACT and post RACT requirements, and that have not committed substantial capital funds to reduce NO_x emissions.

1.2 Applicability

- 1.2.1 The provisions of 1.0 of this regulation apply to any person that owns or operates any combustion unit with a maximum heat input capacity of equal to or greater than 100 million BTU per hour, except that 1.0 of this regulation shall not apply to any unit that, as of the effective date of 1.0 of this regulation:
- 1.2.1.1 Emits NO_x at a rate equal to or less than the rate identified in Table 3-1 of **DE Admin. Code 1112**.
 - 1.2.1.2 Is equipped with low NO_x burner, flue gas recirculation, selective catalytic reduction, or selective non-catalytic reduction technology.
 - 1.2.1.3 Is subject to the requirements of 7 **DE Admin. Code 1139**.
- 1.2.2 The requirements of 1.0 of this regulation are in addition to all other state and federal requirements.
- 1.2.3 Affected persons shall comply with the requirements of 1.3 of this regulation as soon as practicable, but no later than May 1, 2004.

1.3 Standards.

- 1.3.1 The NO_x emission rate from any unit subject to 1.0 of this regulation shall be equal to or less than the following:
- 1.3.1.1 Between May 1st through September 30th of each year, inclusive: 0.10 lb/mmBTU, 24-hour calendar day average.
 - 1.3.1.2 During all times that gaseous fuel is being fired: 0.10 lb/mmBTU, 24-hour calendar day average.
 - 1.3.1.3 During all times not covered by 1.3.1.1 and 1.3.1.2 of this regulation: 0.25 lb/mmBTU, 24-hour calendar day average.
- 1.3.2 As an alternative to compliance with the requirements of 1.3.1 of this regulation, compliance may be achieved through the procurement and retirement of NO_x allowances authorized for use under 7 **DE Admin. Code 1139**, as follows:
- 1.3.2.1 The actual 24-hour calendar day average NO_x emission rate in pounds per million BTU shall be determined for each day of unit operation, using CEMs operated in accordance with 1.4 of this regulation.
 - 1.3.2.2 The actual heat input to each unit in million but shall be determined for each day of unit operation, using methods proposed by the person subject to 1.0 of this regulation and acceptable to the Department.
 - 1.3.2.3 0.10 or 0.25, as applicable and consistent with 1.3.1 of this regulation, shall be subtracted from the rate determined in 1.3.2.1 of this regulation.
 - 1.3.2.4 To obtain the number of pounds of NO_x emitted for a particular day, the emission rate determined in 1.3.2.3 of this regulation shall be multiplied by the heat input to the unit for that day determined in 1.3.2.2 of this regulation. If the emission rate determined in 1.3.2.3 of this regulation is equal to or less than zero, then the number of pounds of NO_x emitted for that day shall be zero.
 - 1.3.2.5 Not later than the 20th day of each month:
 - 1.3.2.5.1 The number of pounds of NO_x emissions calculated pursuant to 1.3.2.4 of this regulation shall be summed for each calendar month, the result shall be divided by 2000, and shall be rounded to the nearest whole ton.
 - 1.3.2.5.2 For each ton of NO_x emissions calculated pursuant to 1.3.2.5.1 of this regulation, records shall be maintained demonstrating that one NO_x allowance owned by the person subject to 1.0 of this regulation is identified and available, by serial number, for retirement.

- 1.3.2.6 Not later than February 1 of each calendar year, the NO_x allowances identified pursuant to 1.3.2.5.2 of this regulation for the previous calendar year, shall be submitted to the Department for retirement. Such submission shall detail the calculations specified in 1.3.2.1 through 1.3.2.5 of this regulation, and shall indicate the serial number of each allowance to be retired.
- 1.4 Monitoring Requirements. Compliance with the NO_x emission standards specified in 1.0 of this regulation shall be determined based on CEM data collected in accordance with the requirements of 3.1.2 of 7 **DE Admin. Code** 1117 (Performance Specification 2), and in compliance with the requirements of 40 CFR, Part 60, Appendix F.
- 1.5 Recordkeeping and Reporting Requirements.
 - 1.5.1 Not later than 180 days after the effective date of 1.0 of this regulation, any person subject to 1.0 of this regulation shall develop, and submit to the Department for approval, a schedule for bringing the affected emission unit or units into compliance with the requirements of 1.0 of this regulation. Such schedule shall include, at a minimum, all of the following:
 - 1.5.1.1 The method by which compliance will be achieved
 - 1.5.1.2 The dates by which the affected person commits to completing the following major increments of progress, as applicable:
 - 1.5.1.2.1 Completion of engineering;
 - 1.5.1.2.2 Submission of permit applications;
 - 1.5.1.2.3 Awarding of contracts for construction or installation;
 - 1.5.1.2.4 Initiation of construction;
 - 1.5.1.2.5 Completion of construction;
 - 1.5.1.2.6 Commencement of trial operation;
 - 1.5.1.2.7 Initial compliance testing;
 - 1.5.1.2.8 Submission of compliance testing reports;
 - 1.5.1.2.9 Commencement of normal operations (in full compliance).
 - 1.5.2 Any person subject to 1.0 of this regulation shall submit to the Department an initial compliance certification not later than May 1, 2004. The initial compliance certification shall, at a minimum, include the following information:
 - 1.5.2.1 The name and the location of the facility.
 - 1.5.2.2 The address and telephone number of the person responsible for the facility.
 - 1.5.2.3 Identification of the subject source or sources.
 - 1.5.2.4 The applicable standard.
 - 1.5.2.5 The method of compliance.
 - 1.5.2.6 Certification that each subject source is in compliance with the applicable standard
 - 1.5.2.7 All records necessary for determining compliance with the standards of 1.0 of this regulation shall be maintained at the facility for a period of five years.
 - 1.5.3 Any person subject to 1.0 of this regulation shall, for each occurrence of excess emissions, within 30 calendar days of becoming aware of such occurrence, supply the Department with the following information:
 - 1.5.3.1 The name and location of the facility.
 - 1.5.3.2 The subject source or sources that caused the excess emissions.
 - 1.5.3.3 The time and date of first observation of the excess emissions.
 - 1.5.3.4 The cause and expected duration of the excess emissions.
 - 1.5.3.5 The estimated rate of emissions (expressed in the units of the applicable emission limitation) and the operating data and calculations used in determining the magnitude of the excess emissions.
 - 1.5.3.6 The proposed corrective actions and schedule to correct the conditions causing the excess emissions.

1.5.4 Any person subject to 1.0 of this regulation shall maintain all information necessary to demonstrate compliance with the requirements of 1.0 of this regulation for a minimum period of five years. Such information shall be immediately made available to the Department upon verbal and written request.

~~07/11/2007~~ 11/11/2009

2.0 Control of NO_x Emissions from Industrial Boilers and Process Heaters at Petroleum Refineries

2.1 Purpose

- 2.1.1 The purpose of Section 2.0 of this regulation is to reduce NO_x emissions from Delaware's large industrial boilers and process heaters that are located at petroleum refineries.
- 2.1.2 Under the 8-hour ozone national ambient air quality standard (NAAQS), the state of Delaware is part of the Philadelphia-Wilmington-Atlantic City, PA-DE-MD-NJ moderate non-attainment area (NAA). The entire NAA, including Delaware, is required by the Clean Air Act (CAA) to attain the 8-hour ozone NAAQS by 2010. After attainment, the area must maintain compliance with the NAAQS. By implementing Section 2.0 of this regulation, NO_x emission reductions from the affected boilers and heaters shall contribute to (1) attainment and maintenance of the 8-hour ozone standard, and (2) improvement of the ambient air quality, in both Delaware and the entire NAA.
- 2.1.3 Additionally, New Castle County of Delaware is a part of the Philadelphia-Wilmington-Camden, PA-DE-NJ NAA for the annual fine particulate matter (PM_{2.5}) NAAQS, and is required by the CAA to attain the NAAQS by 2010. Since NO_x is a significant precursor to PM_{2.5} formation, reducing NO_x emissions will also assist in attainment and maintenance of the PM_{2.5} standard.

2.2 Applicability and Compliance Dates

- 2.2.1 Section 2.0 of this regulation applies to any industrial boiler or process heater with a maximum heat input capacity of equal to or greater than 200 million BTUs per hour (mmBTU/Hour) (except for any Fluid Catalytic Cracking Unit carbon monoxide (CO) boiler), which is operated or permitted to operate within a petroleum refinery facility on the effective date of this section. This comprises the following nine (9) units at the Delaware City refinery:
 - 2.2.1.1 Crude Unit Vacuum Heater (Unit 21-H-2);
 - 2.2.1.2 Crude Unit Atmospheric Heater (Unit 21-H-701);
 - 2.2.1.3 Fluid Coking Unit Carbon Monoxide boiler (Unit 22-H-3);
 - 2.2.1.4 Steam Methane Reformer Heater (Unit 37-H-1);
 - 2.2.1.5 Continuous Catalyst Regenerator Reformer Heater (Unit 42-H-1,2,3);
 - 2.2.1.6 Boiler 1 (Unit 80-1);
 - 2.2.1.7 Boiler 2 (Unit 80-2);
 - 2.2.1.8 Boiler 3 (Unit 80-3);
 - 2.2.1.9 Boiler 4 (Unit 80-4).
- 2.2.2 The requirements of Section 2.0 of this regulation are in addition to all other state and federal requirements.
- 2.2.3 The following units shall be in compliance with the requirements of Section 2.0 of this regulation on and after July 11, 2007: Crude Unit Atmospheric Heater (Unit 21-H-701), Steam Methane Reformer Heater (Unit 37-H-1) and Boiler 2 (Unit 80-2).
- 2.2.4 The following units shall be in compliance with the requirements of Section 2.0 of this regulation as soon as practicable, but not later than:
 - 2.2.4.1 December 31, 2008: Boiler 1 (Unit 80-1) and Crude Unit vacuum Heater (Unit 21-H-2).
 - 2.2.4.2 May 1, 2011: Boiler 3 (Unit 80-3) and Boiler 4 (Unit 80-4).
 - 2.2.4.3 December 31, 2012: Continuous Catalyst Regenerator Reformer Heater (Unit 42-H-1, 2, 3).

2.3 Standards.

The owner or operator of any industrial boiler or process heater identified in Section 2.2.1 of this regulation shall ~~not allow NO_x to be emitted at a rate that exceeds the following~~ meet the applicable NO_x emission limitation identified in the following sections:

- 2.3.1 For the Fluid Coking Unit Carbon Monoxide boiler (Unit 22-H-3), Reserved.
- 2.3.2 For the Steam Methane Reformer (SMR) Heater (Unit 37-H-1), Reserved.
- 2.3.3 ~~For Boiler 1 (Unit 80-1), Boiler 3 (Unit 80-3) and Boiler 4 (Unit 80-4), shall not operate after May 1, 2011. On or before May 1, 2011 the owner or operator of Boiler 3 and Boiler 4 shall request that any operating permit issued by the Department be cancelled. 0.015 lb/mmBTU, on a 24-hour rolling average basis.~~
- 2.3.4 For any unit not covered by 2.3.1, 2.3.2, or 2.3.3, 0.04 lb/mmBTU, on a 24-hour rolling average basis.
- 2.3.5 The standards set out in 2.3 of this regulation shall not apply to the start-up and shutdown of equipment when emissions from such equipment during a start-up and shutdown are addressed in an operation permit issued pursuant to the provisions of §2 of Regulation 1102.
- 2.4 Monitoring Requirements. Compliance with the NO_x emission standards specified in 2.3.1, 2.3.2, and 2.3.4 of this regulation shall be determined based on CEM data collected in accordance with the appropriate requirements set forth in 40 CFR, Part 60, Appendix B, Performance Specification 2, and the QA/QC requirements in 40 CFR Part 60, Appendix F.
- 2.5 Recordkeeping and Reporting Requirements
 - 2.5.1 Not later than 180 days after the effective date of Section 2.0 of this regulation, any person subject to Section 2.0 of this regulation shall develop, and submit to the Department, a schedule for bringing the affected emission unit(s), identified in Section 2.2.4, into compliance with the requirements of Section 2.3 of this regulation. Such schedule shall include, at a minimum, all of the following:
 - 2.5.1.1 The method by which compliance will be achieved.
 - 2.5.1.2 The dates by which the affected person plans to complete the following major increments of progress, as applicable:
 - 2.5.1.2.1 Completion of engineering;
 - 2.5.1.2.2 Submission of permit applications;
 - 2.5.1.2.3 Awarding of contracts for construction and/or installation;
 - 2.5.1.2.4 Initiation of construction;
 - 2.5.1.2.5 Completion of construction;
 - 2.5.1.2.6 Commencement of trial operation;
 - 2.5.1.2.7 Initial compliance testing;
 - 2.5.1.2.8 Submission of compliance testing reports;
 - 2.5.1.2.9 Commencement of normal operations (in full compliance).
 - 2.5.2 Any person subject to Section 2.0 of this regulation shall submit to the Department an initial compliance certification by September 10, 2007 for units identified in Section 2.2.3 of this regulation and, for units identified in Section 2.2.4, by the compliance date specified in Section 2.2.4. The initial compliance certification shall include, at a minimum, all of the following information:
 - 2.5.2.1 The name and the location of the facility;
 - 2.5.2.2 The name, address and telephone number of the person responsible for the facility;
 - 2.5.2.3 Identification of the subject source(s);
 - 2.5.2.4 The applicable standard;
 - 2.5.2.5 The method of compliance;
 - 2.5.2.6 Certification that each subject source is in compliance with the applicable standard.

- 2.5.3 Any person subject to Section 2.0 of this regulation shall, for each occurrence of excess emissions above the standards of Section 2.3 of this regulation, within thirty (30) calendar days of becoming aware of such occurrence, supply the Department with the following information:
- 2.5.3.1 The name and location of the facility;
 - 2.5.3.2 The subject source(s) that caused the excess emissions;
 - 2.5.3.3 The time and date of first observation of the excess emissions;
 - 2.5.3.4 The cause and expected duration of the excess emissions;
 - 2.5.3.5 The estimated rate of emissions (expressed in the units of the applicable emission limitation) and the operating data and calculations used in determining the magnitude of the excess emissions;
 - 2.5.3.6 The proposed corrective actions and schedule to correct the conditions causing the excess emissions.
- 2.5.4 Any person subject to Section 2.0 of this regulation shall maintain all information necessary to determine and demonstrate compliance with the requirements of this section for a minimum period of five (5) years. Such information shall be immediately made available to the Department upon verbal and written request.

5 DE Reg. 1299 (12/01/01)

11 DE Reg. 75 (07/01/07)

12 DE Reg. 347 (09/01/08)

13 DE Reg. 670 (11/01/09) (Final)