
**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

ERRATA**REGISTER NOTICE****SAN # 2010-22**

*** Please Note: The April 2011 issue of the Register contained incorrect text for the Order adopting the proposed regulation. The correct text is printed below.**

1142 Specific Emission Control Requirements

Date of Issuance: March 16, 2011

Effective Date of the Amendment: April 11, 2011

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") the following findings, reasons and conclusions are entered as an Order of the Secretary in the above-referenced rulemaking proceeding.

Background and Procedural History

This Order considers proposed regulation amendments to Section 2.0 of 7 DE Admin. Code 1142, Control of NOx Emissions from Industrial Boilers and Process Heaters at Petroleum Refineries; and Proposed State Implementation Plan (SIP) revision, "Demonstration that Amendments to Section 2.0 of 7 DE Admin. Code 1142, 'Control of NOx Emissions from Industrial Boilers and Process Heaters at Petroleum Refineries', Do Not Interfere with Any Applicable Requirement of the Clean Air Act (CAA)".

Section 2.0 of 7 DE Admin. Code 1142 was first promulgated on July 11, 2007. Subsequently, Regulation 1142 was revised in 2009, consistent with a DNREC/Premcor settlement agreement, and was then submitted to the EPA as a SIP revision. In 2010, Section 2.0 of Regulation 1142 was approved by the EPA into Delaware's SIP.

In 2009, the operations of equipment at the Delaware City Refinery were discontinued, and in 2010 the refinery ownership changed from Premcor Refining Group, Inc., to Delaware City Refining Company, LLC ("DCRC"). Two actions related to this change in ownership impact Delaware's SIP:

- On May 28, 2010, the Department reached an enforcement settlement with Premcor. This settlement, among other things, terminated the 2008 FCCU NOx Agreement which had required the Premcor fluid catalytic cracking unit CO boiler to meet a 20 parts per million (ppm) NOx emission limitation by May 1, 2009.
- On May 31, 2010, the Department and DCRC reached an agreement on DCRC's acquisition, restart and operation of the Delaware City Refinery. One element of that agreement provides that the Department will propose to revise Section 2.0 of 7 DE Admin. Code 1142 to provide for a facility-wide NOx emission cap compliance alternative.

This proposed promulgation seeks to revise Section 2.0 of 7 DE Admin. Code 1142 to (1) provide for the control of NOx from the Fluid Catalytic Cracking Unit CO boiler to the level that was previously required by the 2008 consent agreement; and to (2) provide for a facility-wide NOx emission cap compliance alternative. Additionally, the Department is proposing a SIP document that demonstrates that these two revisions to Regulation 1142 will not interfere with attainment or maintenance of any NAAQS, or any other applicable requirement of the CAA.

The Department's Division of Air Quality (DAQ) commenced the regulatory development process with Start

Action Notice #2010-22. The Department published the proposed regulatory amendments in the January 1, 2011 Delaware Register of Regulations and held a public hearing on February 1, 2011. The Department's presiding hearing officer, Lisa A. Vest, prepared a Hearing Officer's Report dated March 11, 2011 (Report). The Report recommends certain findings and the adoption of the proposed Amendments as attached to the Report as Appendix A.

Findings and Discussion

I find that the proposed Amendments are well-supported by the record developed by the Department, and adopt the Report to the extent it is consistent with this Order. The Department's experts in DAQ developed the record and drafted the proposed Amendments. It should be noted that the Department received public comment from the Delaware City Refining Company, LLC ("DCRC"), and provided thorough and well-reasoned responses to the same in the Department's original Technical Response Memorandum (TRM) of February 4, 2011, and again in its supplemental TRM of March 10, 2011, both of which were expressly incorporated into the Hearing Officer's Report generated in this matter. It should also be noted that the Department received no public comments with regard to the proposed SIP document submission in this matter.

I find that the Department's experts in the DAQ fully developed the record to support adoption of these Amendments. These proposed amendments are based upon a May 31, 2010 agreement ("Agreement") between DNREC and the Delaware City Refining Company, LLC ("DCRC") which states that DNREC will propose to revise Section 2.0 of 7 DE Admin. Code 1142 to provide for compliance with a facility-wide NOx emission cap as an alternative to the existing unit specific NOx emission limitations. With the adoption of these regulatory amendments, Delaware will have the Department's regulations provide for compliance as stated above. Furthermore, with the adoption of the proposed SIP submission, Delaware will demonstrate that the revisions to Regulation 1142 as noted above will not interfere with attainment or maintenance of any NAAQS, or any other applicable requirement of the Clean Air Act.

In conclusion, the following findings and conclusions are entered:

1. The Department has jurisdiction under its statutory authority to issue an Order adopting these proposed Amendments, and associated SIP document, as final;
2. The Department provided adequate public notice of the proposed Amendments and associated SIP document, and provided the public with an adequate opportunity to comment on the same, including at a public hearing;
3. The Department held a public hearing on February 1, 2011 on the proposed Amendments and associated SIP document, in order to consider public comments before making any final decision;
4. The Department's Hearing Officer's Report, including its recommended record and the recommended Amendments as set forth in Appendix A, are adopted to provide additional reasons and findings for this Order;
5. The recommended Amendments do not reflect any substantive changes from the proposed regulation Amendments as published in the January 1, 2011, Delaware Register of Regulations;
6. The recommended Amendments should be adopted as final regulation Amendments because said revisions to Section 2.0 of 7 DE Admin. Code 1142 will (1) provide for the control of NOx from the Fluid Catalytic Cracking Unit CO boiler to the level that was previously required by the 2008 consent agreement; and (2) provide for a facility-wide NOx emission cap compliance alternative. Additionally, the adoption of the recommended SIP document submission will demonstrate that these two revisions to Regulation 1142 will not interfere with attainment or maintenance of any NAAQS, or any other applicable requirement of the CAA; and that
7. The Department shall submit this Order approving the final regulation to the Delaware Register of Regulations for publication in its next available issue, and provide such other notice as the law and regulation require and the Department determines is appropriate.

14 DE Reg. 1153 (05/01/11)
