



STATE OF DELAWARE  
**DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL**  
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Office of the  
Secretary

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**Secretary's Order No. 2017-A-0025**

**Re: Application of the Delaware City Refining Company, LLC and the Delaware City Logistics Company, LLC to Amend Air Pollution Control Permits to Construct and Operate Equipment for the Ethanol Marketing Project at the Delaware City Refinery, 4550 Wrangle Hill Road, Delaware City, New Castle County**

**Date of Issuance: October 17, 2017**  
**Effective Date: October 17, 2017**

**BACKGROUND AND PROCEDURAL HISTORY**

The Secretary of the Department of Natural Resources and Environmental Control ("Department") issues this Order on the August 18, 2016 application ("Application") submitted by the Delaware City Refining Company, LLC ("DCRC") and the Delaware City Logistics Company, LLC ("DCLC") to the Department's Division of Air Quality ("DAQ").

The Application seeks to amend air pollution control permits for the construction and operation of the Ethanol Marketing Project's equipment ("Project") at the Delaware City Refinery, 4550 Wrangle Hill Road, Delaware City, New Castle County ("Facility"). The Project would allow the Facility to store up to an additional 10,000 barrels per day<sup>1</sup>

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<sup>1</sup> As measured on an average annual basis.

("BPD") of denatured ethanol ("ethanol"). The Project also would allow the Facility to ship up to 10,000 BPD of ethanol using either marine vessels or trucks.

On January 15, 2017, the DAQ published public notice of the Applications and the DAQ prepared Draft Permits ("Draft Permits"). The Department received a public comment that requested a public hearing, and assigned Robert P. Haynes, Esquire, to preside over a public hearing and to prepare a Report of recommendations.

The Department held a public hearing on April 19, 2017, and the DAQ submitted for the Record a revised Draft Permit for the marine vapor recovery system's ("MVRS") permit ("Revised Draft MVRS Permit"). The MVRS permit also regulates crude oil loading onto the marine vessels at the Facility's piers on the Delaware River, and the proposed revision was an "amplification" of the MVRS permit consistent with a prior Department Order that restricted where the Facility may send crude oil shipments.

Following this public hearing, the Department received a request for an additional public hearing. This request claimed that the Department did not provide proper notice of the April 19, 2017 public hearing because the Department did not email the public notice to subscribers to the Department's email service.<sup>2</sup> As a courtesy, the Department held another public hearing on June 5, 2017 based upon a new public notice. The public hearing Record includes public comments that seek the Department's denial of the Application, delaying the Department's decision, or revising the Draft Permits. The Applicants also submitted a response that opposed the April 19, 2017 Revised Draft MVRS Permit that restricted the destination of marine shipments of crude oil.

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<sup>2</sup> The Department acknowledges that due to an administrative error it did not email the public notice to the subscribers to its public notice email service, which the Department voluntarily provides to supplement the newspaper publication of legal notices as required by 7 *Del. C. 6006(1)*.

Following the conclusion of the public comment period, Mr. Haynes requested technical assistance from the DAQ. In response, the DAQ submitted a July 5, 2017 Technical Response Memorandum ("TRM") that addressed all of the public comments and recommended that the Department approve the Project and the DAQ recommended Revised Draft Permits, which included the revision to the MVRS Draft Permit submitted at the April 19, 2017 public hearing and the addition of conditions that would require the pollution control equipment's operation prior to the other equipment's operation. On August 25, 2017, the DAQ provided a supplemental TRM that indicated that the Department withdrew the April 19, 2017 revision to the MVRS Draft Permit.

Mr. Haynes prepared the attached Hearing Officer's Report ("Report") that provides a complete procedural history, summarizes and establishes the record, and proposes findings of fact, reasons and conclusions in support of the Department approving the Application and the recommended permits attached to the Report ("Proposed Permits"), which reflect the Revised Draft Permits without the restriction on crude oil deliveries.

The Report discusses the public comments. The public comments claimed that the Department did not properly review the Application under the Department's *Air Quality Regulation 1125, Requirements for Preconstruction Review, 7 DE Admin. Code 1125* ("Regulation 1125"). The Report's review supported the DAQ interpretation of Regulation 1125 and found that the Department properly reviewed the Applications under *Regulation 1102, 7 DE Admin. Code 1102*, ("Regulation 1102") based upon determining that the Project's proposed 9.8 tons per year ("TPY") net reduction in the Facility's Volatile Organic Compounds ("VOCs") air emissions was not a "major

modification" subject to the Department's review under Regulation 1125's procedures. The public comments also claimed that the Project's emissions would harm the environment and public health and would violate the *Coastal Zone Act, 7 Del. C. Chap. 70* ("CZA"). The Report recommended adopting the DAQ positions on these issues, as set forth in its TRM, and found that the Project's net emission reduction would improve the air quality. Thus, the Report recommended that the Department approve the Application and the Proposed Permits pursuant to Section 14.4.7 of Regulation 1102.

### **FINDINGS OF FACT**

The Department finds that the Record, including the Application and the DAQ prepared Draft Permits and supporting memorandums, provides the Department with all the required information to make a final decision on the Application. The Department determines that the public comments do not support the denial of the Application, the delay of the final decision, or any changes to the Report's recommended Proposed Permits. The Department approves the Proposed Permits because they are consistent with the Department's Air Quality Regulations and supported by the Record.

The Application support approving the Project and its proposed use of the Facility's equipment for storing and shipping up to 10,000 BPD of ethanol. The Department finds that the Project includes six components that require the Department to amend four permits.

The first component and permit is to increase the permit limit for ethanol stored in Tank 206 by 10,000 BPD, or from 2,374 BPD to 12,374 BPD. This increased storage would increase the tank's potential to emit VOCs by 0.258 tons per year ("TPY").

The second component and permit is to convert the currently out of service crude oil storage Tank 225 to store 10,000 BPD of ethanol, which would increase its potential to emit VOCs by 0.41 TPY.

The third component and permit is the MVRS permit for the pollution control system used at the piers to load crude oil, which the Project proposed to modify to allow its use to control VOCs emissions during ethanol loading. This increased use would increase VOCs emissions by 3.4 TPY, but this increase would be within the existing MVRS permit's total limit for VOCs.

The fourth component and permit is to install additional loading arms at the truck terminal's lanes 4, 10 and 11 to allow ethanol loading of trucks. This change would increase VOCs emissions by 0.05 TPY.

The fifth component also is for the truck terminal's permit and would modify the truck terminal's loading rack's vapor recovery system by installing a vapor vacuum pollution control system designed to capture 98% of all the fugitive VOCs that otherwise would be emitted from loading trucks with gasoline and ethanol. This component of the Project would reduce the Facility's VOCs emissions by 17.04 TPY.

Finally, while not requiring any construction activity, the Applicants agreed to reduce the Facility's permit limit for VOCs from 68.1 TPY to 41.2 TPY, or a reduction of 26.9 TPY, to reflect the Project's changes, particularly the reduction from improving the truck terminal's pollution control system.

The Department approved the Project<sup>3</sup> under the CZA in Secretary's Order No. 2016-CZ-0050, issued December 27, 2016. The Department finds that the Project

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<sup>3</sup> The Department approved the Facility's unloading of ethanol from railcars at the Facility's East Rack railyard in Permit APC-2016/0092-Registration.

received the Department's CZA permit to store and ship the 10,000 BPD of ethanol, which remains in effect even though the Department's CZA decision is under review by the Superior Court.<sup>4</sup> The CZA decision relied in part on the Project's vacuum vapor recovery system, which provided the Department's required environmental offset for the Project's components that increased air emissions.

This Order approves the Application' air emissions from the proposed storage of an additional 10,000 BPD of ethanol and shipping up to 10,000 BPD of ethanol by truck or marine vessel based upon the Project's proposed net decrease in VOCs emissions, which will occur because of the Project's proposed pollution control system at the truck terminal. The Department finds that the Project will result in a net decrease of VOCs emissions by 9.8 TPY, which should improve Delaware's air quality and public health.

In summary, the Department finds that the Project complies with the Department's Air Quality Regulation 1102 and is not a major modification as defined in Regulation 1125. The Department finds that the Record supports a final decision to approve the Application and the Proposed Permits, which will result in reducing the Facility's VOCs emissions by 9.8 TPY.

### **REASONS AND CONCLUSIONS**

The Department approves the Application and the Proposed Permits because the Record supports such approval after consideration of the public comments that oppose the Application. The public comments failed to provide sufficient support for a decision to deny or amend the Proposed Permits. The Delaware Audubon Society ("DAS")

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<sup>4</sup> In *Delaware Audubon et al. v. DNREC, Coastal Zone Industrial Control Board*, Docket No. CZ-2017-01, issued March 16, 2017, the Coastal Zone Industrial Control Board dismissed the appeal based upon the appellants' lack of standing. An appeal of this decision is pending before Superior Court in C.A. No. N17A-03-007.

submitted extensive comments, which set forth ten positions that seek the Department's delay of its decision, denial of the Application, or revisions to the Draft Permits.

The DAS' first position seeks to require the Department to review the Application under the Department's Regulation 1125 based upon the claim that the Application will result as a major modification. Regulation 1125 sets forth Requirements for Preconstruction Review for certain construction activity at the Facility. The DAS comments seek to require that the Department consider the Project's components separately and not together. The Department properly considers the Project's components together and rejects DAS' position that seeks to interpret Regulation 1125 as requiring the Department's review of the Project or any of its components as a major modification within the meaning of Regulation 1125.

The DAS' comments misinterpret Regulation 1125. The Department regulates the Facility subject to Regulation 1125 for construction applications for major modifications, as defined by Regulation 1125. Regulation 1125 defines "major modification" as "any physical change or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the CAA." The Project does not propose any "significant net increase" of any pollutant. Instead, the Project will reduce the Facility's VOCs emissions by 9.8 TPY.

The Regulation 1125 further supports rejecting the DAS interpretation of Regulation 1125's definition of the phrase "net emission increase," which is "[a]ny other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable emissions over the Facility's limit." The Project satisfies the "contemporaneous change" because the truck terminal's vapor

vacuum pollution control equipment will operate before the other equipment and otherwise meets the requirements for a creditable decrease in actual emissions. The Report and the DAQ TRM set forth Regulation 1125 and support its plain meaning interpretation that allows the Department to review all of the Project's components together, and not to require separate applications submitted under Regulation 1125's procedures.

The second DAS position advocated changes to the Draft Permits claiming that they are too vague to enforce. The DAQ's TRM refutes the DAS position that the Draft Permits are too vague and, as such, unenforceable. The Report also finds no support for the DAS' claims that cited permit terms as too vague and unenforceable. The Department approves the Proposed Permits because they provide clear and enforceable terms that do not require any clarification or changes.

The DAS' third position seeks to delay any Department decision pending the resolution of the appeal of the Department's CZA permit. The Department disagrees with the DAS position to postpone this decision until the appellate review is over, which could take years. The Department issued a CZA permit that remains in effect,<sup>5</sup> and supports the Department's decision on the Application without waiting for the conclusion of the appellate review of the CZA permit.

The DAS' fourth position seeks to amend the Draft Permits to include a condition that allows for enforcement of the CZA permit. The Department sees no rationale to amend the Draft Permits to include the CZA permit. The Department's CZA Program

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<sup>5</sup> See Section 16.1.2 of 7 DE Admin. Code 101.

issued the CZA permit and the Department is capable of enforcing the CZA permit without incorporating it into other Department permits

The DAS' fifth position seeks the Department's denial of the Application based upon the Facility's history of compliance with its permits. The Department does not agree with the DAS' position that the Facility's compliance history supports the Department's denial of the Application. The Project will improve the Facility's air emissions, which is an action that should be encouraged.

The sixth DAS position seeks to require public notice of the April 19, 2017 MVRS Draft Permit revision. The Department withdrew this revision, as set forth in the DAQ's supplemental TRM. Hence, the DAS' request is moot.

The Department disagrees with the DAS's seventh position, which seeks to delay the Department's decision until the Department provides sufficient information in response to its Freedom of Information Act ("FOIA") requests. The Department does not consider that DAS' issues with the Department's compliance with FOIA supports delaying its decision on the Application. The Department considers the DAS position on its pending dispute over the Department's response to its FOIA request is a separate issue from the consideration of the Application. The Department sees no link or reason to delay its review of the Application because of the FOIA dispute.

The DAS' eighth position seeks to amend the Draft Permits to require fence line air monitoring. The DAQ's TRM and the Report review this DAS position and do not recommend any change to the Draft Permits based upon the adequate monitoring already provided by the Draft Permits. The Department agrees with the DAQ position and the Report.

The DAS' ninth position seeks to revise the Draft Permits to require a new emergency response and evacuation plan based upon the new shipment of ethanol. As noted in the DAQ TRM and the Report, the Facility has used ethanol for years as a gasoline additive. Thus, the Department does not adopt the DAS position to require any update to the Facility's emergency response and evacuation plan.

The tenth DAS position seeks to have the Department consider the Project's addition to the Facility's air emissions, but the DAQ TRM and the Report explain that the Draft Permits reflect the reduction in the Facility's VOC air emissions, which will decrease by 9.8 tons annually when the Project's equipment begins operating.

In conclusion, the Application supports the proposed equipment changes for the Project, which will allow the Facility to store up to an additional 10,000 BPD of ethanol and to ship up to 10,000 BPD of ethanol by either truck or marine vessel. The Proposed Permits include terms and conditions that require periodic monitoring, testing, and reporting, and these terms and conditions will ensure that the Project operates within prescribed limits. The Record, as established in the Report, supports the above findings and reasons, and the Department's approval of the Proposed Permits. The Department enters the following findings, reasons and conclusions and orders the publication of public notice of this Order and its electronic publication:

1. The Department has jurisdiction under its statutory authority to make a determination on the Application following the public hearings;
2. The Department properly determined that the Application was complete and provided proper public notice of the Application and the Draft Permits;

3. The Department properly provided public notice of the public hearings on the Application and the Draft Permits;
4. The Department considered all public comments timely received and enters this Order based upon a Record established in the Report;
5. The Report and the DAQ's TRMs provide additional support for this decision and are adopted to support this decision;
6. The DAQ is authorized to undertake the actions to issue the Proposed Permits as final permits following any further review by the United States Environmental Protection Agency; and
7. The Department shall provide public notice of this Order in the same manner as the public notice of the Application, and shall publish this Order on its web page.



Shawn M. Garvin  
Secretary



## HEARING OFFICER'S REPORT

TO: The Honorable Shawn M. Garvin  
Secretary, Department of Natural Resources and Environmental Control

FROM: Robert P. Haynes, Esquire  
Senior Hearing Officer, Office of the Secretary  
Department of Natural Resources and Environmental Control

RE: **Application of the Delaware City Refining Company, LLC and the Delaware City Logistics Company, LLC to Amend Air Pollution Control Permits to Construct and Operate Equipment for the Ethanol Marketing Project at the Delaware City Refinery, 4550 Wrangle Hill Road, Delaware City, New Castle County**

DATE: September 25, 2017

### I. PROCEDURAL HISTORY

This Report considers the Record developed for the Secretary of the Department of Natural Resources and Environmental Control ("Department") on the August 18, 2016 application ("Application") submitted by the Applicants, Delaware City Refining Company, LLC ("DCRC") and Delaware City Logistics Company, LLC ("DCLC"). The Applicants seek amendments to air pollution control permits to allow the construction and operation of the Ethanol Marketing Project ("Project") at DCRC's Delaware City Refinery at 4550 Wrangle Hill Road, Delaware City, New Castle County ("Facility"), which includes DCLC's truck marketing terminal. The Project would increase the Facility's capability to receive, store and ship up to 10,000 barrels per day ("BPD") of denatured ethanol ("ethanol") by truck from DCLC's truck terminal or by marine vessels from DCRC's piers on the Delaware River.

On December 2, 2016, the Applicants submitted a letter that clarified the Application on which storage tanks the Applicants proposes to use to store the additional 10,000 BPD of ethanol.

The Department's Division of Air Quality ("DAQ") reviewed the Application and determined that it was complete under the applicable Department's Regulations, including Regulation 1102, and that the Application's net emission decrease was not a major modification under Regulation 1125. The Application, if approved, would result in federally enforceable permit changes to the Facility's Title V operating permit under Regulation 1130. The DAQ prepared four Draft Permits<sup>1</sup> and supporting technical memorandum.

On January 15, 2017, *The News Journal* and the *Delaware State News* published legal notices that provided public notice of the Application and the four Draft Permits.

In a February 15, 2017 email, the Department received Amy Roe, Ph.D.'s comment and request for a public hearing. The Department assigned me to preside over the public hearing and to prepare this Report.

On March 5, 2017, the DAQ published legal advertisements in *The News Journal* and the *Delaware State News* that provided public notice of an April 19, 2017 public hearing at the Delaware City Fire Company. The DAQ also posted the notice of the public hearing on Delaware's public meeting calendar web page and in the Department's E-News newsletter emailed to subscribers.

At the April 19, 2017, public hearing, the DAQ's representatives Ravi Rangan, P.E. and Lindsay Rennie attended and Ms. Rennie developed an administrative record. Ms. Rennie included a proposed change to the MVRS Draft Permit. The DAQ provided a supporting

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<sup>1</sup> Under the Department's permitting procedures to provide possible coordinated and streamlined review, the DAQ also sent the draft/proposed permits to the United States Environmental Agency ("EPA"). The Draft Permits were identified as: 1) APC-1988/0125-C(A6)(MACT)(VOCs) (RACT) (NSPS) that would amend DCLC's permit for the Facility's truck terminal; 2) APC-1995/0471-C/(A5)(LAER)(NACT)(NSPS) amending DCRC's permit for the air pollution control system at the piers to allow its use for loading ethanol onto marine vessels; 3) APC-1980/0868-C/O(A5)(MACT)(VOCs) (RACT) amending DCRC's permit for ethanol storage tank 206 to increase its throughput; and 4) APC-1980/0868-C/O(A5)(MACT)(VOCs) (RACT) amending DCRC's permit for storage tank 225 to repurpose it from crude oil storage to ethanol storage.

memorandum that indicated the change to the MVRS Draft Permit was an "amplification" based upon a prior Department order to restrict crude oil shipments from the Facility to only the Facility's affiliated refinery in Paulsboro, New Jersey. The Applicants' representative, Tom Godlewski, Environmental Manager, made a brief presentation. Two members of the public attended the public hearing and one presented comments.

On April 26, 2017, the Applicants provided a response<sup>2</sup> that opposed the DAQ's April 19, 2017 revision to the Draft MVRS Permit for crude oil shipments.

In an April 28, 2017 email, Dr. Roe requested that the Department hold another public hearing and/or extend the public comment period. Her request claimed that the Department failed to provide her with sufficient public notice of the public hearing because the Department did not send her by email or mail the public notice. She also complained of the Department's failure to provide documents requested by her under the Freedom of Information Act ("FOIA") 7 *Del. C. ch. 100*. She followed this request with an April 29, 2017 email citing the Department's policies for the public notice.

I provided the Applicants and the DAQ with the opportunity to respond to Dr. Roe's request. In a May 2, 2017 email, the Applicants opposed Dr. Roe's request on the grounds that the Department provided sufficient public notice with the legal notices and the email notice to subscribers of the Department's E-Newsletter.

On May 4, 2017, Dr. Roe sent an email claiming that she did not receive any email notice from the Department's email notice service even though she subscribes to this service.

In a May 11, 2017 email, I granted Dr. Roe's request and informed her that the Department scheduled a June 5, 2017 public hearing.

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<sup>2</sup> Submitted pursuant to Section 12.4.5 of Regulation 1102.

On May 14, 2017, the DAQ published in the *Delaware State News* legal notice that provided public notice of the June 5, 2017, public hearing at the Department's Lukens Drive office. On May 15, 2017, *The News Journal* also published the legal notice and informed the Department that it failed to publish it on May 14, 2017.

At the June 5, 2017 public hearing, the DAQ's Mr. Rangan, Mrs. Angela Marconi and Ms. Rennie attended and the Applicants' Mr. Godlewski, who presented slides to accompany his presentation.

On July 5, 2017, the DAQ provided the attached Technical Response Memorandum ("TRM"), which addressed the public comments and recommended that the Department adopt the four Revised Draft Permits attached to the TRM, which reflected the April 19, 2017 revision to the MVRS Draft Permit for the crude oil destination and two additional permit conditions to require that the pollution control equipment will operate before the other equipment's operation.

On August 25, 2017, the DAQ provided a supplement TRM that withdrew the proposed April 19, 2017 modification to the MVRS Draft Permit. The DAQ provided permits ("Proposed Permits") that are attached hereto that reflect the original Draft Permits, as revised by the two additional conditions added with the July 5, 2017 DAQ TRM.

I consider the Record, as established and summarized below, complete for the Department's final decision to approve the Proposed Permits for sending to the United States Environmental Protection Agency ("EPA") for review pursuant to Section 12.4.7 of 7 *DE Admin. Code* 1102.

## **II. SUMMARY OF THE RECORD**

The Record contains the following: 1) the verbatim transcripts of the two public hearings; 2) the documents introduced as exhibits at the two public hearings, as identified below; and 3)

this Report, the attached DAQ TRMs, and the documents referenced in this Report and the TRMs. The following summarizes the Record.

At the April 29, 2017 public hearing, the DAQ's representatives, Ravi Rangan, P.E., and Lindsay Rennie, introduced themselves, and Ms. Rennie provided the following documents as Department exhibits<sup>3</sup>:

- DNREC Ex. 1-the Application dated August 18, 2016,
- DNREC Ex. 2-Applicants December 2, 2016 letter to modify the Application,
- DNREC Ex. 3-the four Draft Permits prepared by the DAQ for DCRC,
- DNREC Ex. 4-the permit for DCLC's truck marketing terminal,
- DNREC Ex. 5- the DAQ technical support memorandum for the four permits,
- DNREC Ex. 6-the DAQ proposed revision to the MVRS Draft Permit to clarify it consistent with prior Department orders that restricted the destination of marine shipments of crude oil,
- DNREC Ex. 7-the legal notices of the Applications and Draft Permits as published in *The News Journal* and the *Delaware State News*,
- DNREC Ex. 8-the legal notices of the April 29, 2017 public hearing at the Delaware City Fire Hall,
- DNREC Ex. 9-the affidavits of publication of the public hearing's notices,
- DNREC Ex. 10-Amy Roe's comment and request for a public hearing, and
- DNREC Ex. 11-Correspondence between the United States Environmental Protection Agency and the DAQ.

Mr. Godlewski, the Facility's Environmental Manager, made similar presentations<sup>4</sup> at both public hearings, with a slide presentation at the June 5, 2017 public hearing. He stated that the four Applications seek modifications to three DCRC permits and a DCLC permit. He said the DCRC permit modifications sought to construct changes to storage tank 206, storage tank 225, and to the MVRS at the piers. He said that the DCLC permit modification would install truck-loading racks for ethanol at its truck-marketing terminal. He described the Project's

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<sup>3</sup> The Department develops an administrative record at the public hearing to support the Draft Permits and to assist the public in presenting comments. The Applicants have the overall burden of proof to support the Application.

<sup>4</sup> This summary reflects both of the presentation since they were similar and based upon the same slide presentation that is marked as Applicant Ex. 1.

background, which included repurposing parts of the existing rail unloading facility from crude oil to ethanol. He stated that the EPA's Renewable Fuel Standard Program requires the Facility's use of renewable fuels in gasoline, and since 2006 the Facility has added ethanol as a renewable additive for gasoline. He said that past deliveries of ethanol have been by barge. He described the Project as adding capability to load ethanol onto marine vessels at the piers or onto trucks at the truck terminal's loading rack. He stated that the Project proposed loading up to 10,000 BPD either at the marine pier or at the truck terminal.

Mr. Godlewski identified storage tank 206 as currently used to store ethanol. He said that tank 225 currently was not in service, and the Project would convert it from storing crude oil to storing ethanol. He described the short piping jumpers needed to send ethanol to the piers and the truck terminal. He indicated the proposed minor modification to pumps with installing double seals that would reduce fugitive emissions. He said that the Project would install four loading arms on the marketing terminal's truck loading racks for each of lanes 4, 10 and 11.

He described the Project's offset for the VOCs emissions as a vapor vacuum control system at the marketing terminal for all truck loading of ethanol and refined products, which will reduce annual VOCs emissions by 17 tons. He described changes to the MVRS already in use at the piers to allow control of ethanol emissions during loading of marine vessels.

He addressed the criteria of air pollutants and indicated that the Project's overall emissions were below the state and federal limits for significant emissions for every pollutant. He said the Project would not be a major modification as defined in the Regulations. He described the operation of the vacuum control system as essentially eliminating all fugitive emissions during truck loading. He stated that EPA indicates that the vapor vacuum system has

a 98.7% capture factor. He concluded by summarizing the Project's proposed equipment changes.

The following public speakers provided comments at the two public hearings:

1. Bernie August presented comments at the April 19, 2017 public hearing as a member of the Conservation Committee of the Delaware Audubon Society, a member of the Green Party, and an environmental activist for over 45 years. His comments addressed the use of ethanol as a gasoline additive, which he opposes. He submitted a report on the adverse impact of ethanol, which I marked as August Ex. 1. His comments highlighted the Report's review of ethanol's adverse impacts on the environment.
2. Amy Roe, Ph.D. spoke at the June 5, 2017 public hearing. First, she thanked the Department for holding another public hearing. She indicated that the Delaware Audubon Society Conservation Chair, Mr. Martell, would submit written comments, which she would summarize. She said that the Draft Permits are legally inadequate and insufficiently supported. She claimed that the Department should base the Draft Permits upon a major source non-attainment new source review. She commented on Applicants' presentation that stated that the proposed emissions were below the significant threshold and noted that the Project is a major modification under the Clean Air Act if VOCs emissions exceed 25 tons per year. She stated that the VOCs emissions would exceed 25 tons annually without the reduction in VOCs emissions, which she claimed reflected double counting because the reductions were required in a prior permit to meet Ozone National Ambient Air Quality Standards. She also claimed the Draft Permits were too vague, and that they failed to meet Title V standards that ensure compliance, and she cited examples in the Draft Permits' Sections 1.2 and 2.1. She also indicated that the Draft Permits do not have the required monitoring testing or operational limitations. She indicated that the terminal permits' section 2.1.3 relies on EPA's Method 25A, which she claimed would not detect ethanol. She advocated using either Methods 18 or 320. She stated that the Draft Permit failed to provide a construction complete date. She claimed the Draft Permits fail to include terms to enforce the CZA permit, and she advocated that the Department not issue any permit until resolution of the pending appeal of the Project's CZA decision. She questioned the Department's reliance on self-reporting in light of Facility's track record. She also claimed that the DAQ's April 19, 2017 proposed clarification to the MVRS permit failed to meet public notice requirements. She requested that the Department require realtime fence-line air monitoring. She cited a September 2015 EPA action to adopt a Clean Air Act standard to reduce the toxic burden on communities near oil refineries and require such monitoring. She claimed that the Project lacks an emergency response and evacuation plan and claimed that ethanol is a highly volatile pollutant with characteristics different from crude oil, and she requested updating the emergency response and evacuation plan to consider ethanol spills from train derailments, railcar accidents, and into the water. She cited past accidents to support this request. Finally, she requested that the Department consider the cumulative health risks and pollution in its decision. She cited the

Centers of Disease Control Prevention and the Department of Health and Social Services as reporting that the nearby area has a higher cancer census tract. Her written statement was marked as Roe Ex. 1.

3. Mark Martell spoke and asked questions on the market for ethanol and was told that there was no restriction on the delivery of ethanol. He commented on the ownership of PBF Logistics, which he said was a relatively new business, was a master limited partnership, and had a financial relationship with the Project. He mentioned the pending FOIA request for communications between the Department and DCRC. He commented on the Facility's effort to move away from refining and to bulk products transfer. Mr. Martell's written statement, which he said was similar to Dr. Roe's, was marked as Delaware Audubon Ex. 1.
4. Sara Bucic provided comments in support of the comments from the Delaware Audubon Society and Dr. Roe. She noted the 2012 report from the Delaware Health and Social Services on the Delaware City census tract's on cancer rates. She said she lived in Delaware City for seven years, is a cancer survivor, and she requested that the Department consider the cumulative impact on nearby residents.

Following the close of the public comment period at the June 5, 2017, I requested the DAQ's technical assistance and recommended position. In a Technical Response Memorandum ("TRM") dated July 5, 2017, the DAQ provided a thorough review of the individual public comments. The DAQ TRM also recommended that the Department issue the Revised Draft Permits, which reflected the DAQ April 19, 2017 proposed Revised MVRS Draft Permit and the addition of two conditions that would require that the Project's pollution control equipment operate prior to the other equipment's operation. In an August 25, 2017, supplement to the TRM, the Department withdrew the April 19, 2017 proposed change to Revised MVRS Draft Permit for the crude oil delivery destination, citing that the Department may pursue other means for this change.

The DAQ provided the Proposed Permits attached hereto that are the original Draft Permits, except for the addition of the two conditions that require that the Project's vacuum vapor pollution control equipment operate before the Project's other equipment.

### **III. FINDINGS OF FACT**

I find that the Record, including the Application, the DAQ supporting technical memorandums and the TRMs, provide the Department with all the required information to make a final decision. I considered all the public comments and find that they do not warrant any change to the Proposed Permits, which are the same as the original Draft Permits prepared for the initial public notices except for the two conditions DAQ proposed to require the pollution control equipment's operation prior to the operation of the other equipment. I recommend that the Department approve the Proposed Permits attached hereto based upon the Record, and I find that the DAQ's TRMs and technical memorandum fully support the Department's approval of the Proposed Permits for further review by the EPA.

The Applications support approving the Project's proposed construction, which would allow the Facility to store and ship by either truck or marine vessel an additional 10,000 BPD of ethanol. The Department previously approved the unloading of ethanol from railcars at the Facility's East Rack railyard as part of the federally mandated change that required the use of ethanol in the petroleum refinery process for gasoline production.<sup>5</sup> The Department also approved the Project under the CZA in Secretary's Order No. 2016-CZ-0050 issued December 27, 2017. This Order reflected the Applications' air emissions from the storage and loading of 10,000 BPD of ethanol, which were more than offset by the Project's air pollution control system. Thus, the Project will reduce air emissions of the pollutant Volatile Organic Compounds ("VOCs") by 9.8 tons a year ("TPY").

The Project will amend the existing permit for crude oil storage tanks 225 by converting it to store ethanol. The Project also proposes amending ethanol storage tank 206 to increase its

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<sup>5</sup> Permit APC-2016/0092-Registration.

usage by the additional ethanol. The Project proposes amending the marine terminal's MRVS permit for loading ethanol on marine vessels. The Project proposes to amend the permit for the truck terminal to load trucks with ethanol. Finally, the Project proposes amending the permit at the truck terminal to install a vapor vacuum pollution control system to recover fugitive VOCs emissions from the truck loading of gasoline and ethanol.

Tank 206 is an existing ethanol storage tank with 2,374 BPD throughput, which would increase its capacity by 10,000 BPD to 12,374 BPD. This change would increase the tank's potential to emit VOCs by 0.258 tons per year ("TPY").

Tank 225 currently is not in service, and the construction would convert it from crude oil storage tank to a 10,000 BPD ethanol storage tank with a potential to emit an additional 0.41 TPY of VOCs.

The changes at the Sales Terminal's loading arms would add 0.05 TPY of VOCs emissions.

The installation of the vapor vacuum pollution control system at the Sales Terminal's loading rack's lanes 4, 10 and 11, that is used for ethanol and gasoline, would reduce VOCs emissions by 17.04 TPY based the system's design 100% capture efficiency and assumed in operation 90% of the time. The estimated 10% time for scheduled or unscheduled maintenance and repair will be subject to a permit limit of 4.4 TPY for VOCs. Based upon these changes to the Sales Terminal, the Facility agreed to reduce its 68.1 VOCs permit limit to 41.2 TPY, or a reduction of 26.9 TPY.

The Project proposed changes to the Marine Terminal's MVRS reflects the increased use for ethanol shipments that will increase VOCs emissions by 3.4 TPY, which is within the

existing permit's limit. In addition, the marine loading's 1.27 TPY increase in nitrogen oxide ("NO<sub>x</sub>") emissions is within the Facility's permitted 1,650 TPY NO<sub>x</sub> limit.

The overall potential to emit, as calculated using Tank 225's 0.50 TPY, and the Sales Terminal's net change, produces a 9.8 TPY reduction in emissions of VOCs. As a reduction in air emissions, the DAQ properly determined that the Project was not subject to a Non-attainment New Source Review pursuant to Regulation 1125, which is triggered by increased VOCs or NO<sub>x</sub> emissions of at least 25 TPY, as calculated over five years. The Facility's five-year increase of VOCs emissions totals 23.2 TPY. Thus, the Department's CZA decision reflected the benefits from the vapor vacuum pollution control system, which also allows the Project to avoid New Source Review regulatory requirements. The 9.8 TPY decrease in emissions of VOCs also does not trigger a Minor New Source Review, which would require a 5.0 TPY increase in VOCs.

#### **IV. REASONS AND CONCLUSIONS**

I recommend that the Department approve the Proposed Permits because the Record supports approving the Project and the DAQ prepared Proposed Permits. I have considered the public comments that request that the Department deny the Application and concluded that they fail to provide sufficient support for a decision to deny. I address below the Delaware Audubon Society's ("DAS") comments, which set forth the following reasons seeking the Department's denial or revisions of the Draft Permits: 1) the Draft Permits should have applied the Department's Regulation 1125 for an application for a major modification triggering a non-attainment new source review; 2) the Draft Permits are too vague to enforce; 3) the Draft Permits should be delayed until resolution of the Project's CZA permit; 4) the Draft Permits do not include conditions to enforce the CZA permit; 5) the Draft Permits should be denied based upon the Facility's poor track record of permit compliance; 6) the DAQ April 19, 2017 revision to the

MVRS Draft Permit failed to provide sufficient public notice; and 7) the Department failed to provide sufficient information in response to FOIA requests; 8) the Department should revise the Draft Permits by requiring fence line air monitoring; 9) the Department should require in the Draft Permits that the Applicants revise the emergency response and evacuation plans to reflect the Project's additional ethanol handling; and 10) the Department's Draft Permits should consider the Project's addition to the Facility's air emissions. The DAQ TRM provides thorough review of the Delaware Audubon's positions.

I agree with the DAQ's response to the first position, which relies on interpreting Regulation 1125 entitled "Requirements for Preconstruction Review," 7 *DE Admin. Code* 1125 ("Regulation 1125"). Regulation 1125 applies to construction at the Facility that is a "major modification," which Regulation 1125 defines as "any physical change or change in the method of operation of a major stationary source that would result in a **significant net emissions increase** of any pollutant subject to regulation under the CAA." (Emphasis added.) The Project's construction is not subject to Regulation 1125 because it will decrease the Facility's annual air emissions of VOCs emissions by 9.8 tons. The DAQ TRM set forth in detail the applicable regulatory language that allows the Department to consider the Project's components together, as opposed to separately, as the DAS suggests. This suggested interpretation would ignore the considerable benefits of the vapor vacuum pollution control system that is an integral part of the Project.

The vacuum vapor system will be installed before operating the other components to satisfy Regulation 1125's definition of "Net Emission increase," which expressly allows consideration of all the Project's components. The DAQ TRM cited part of the applicable Section 1.9 definition of "Net Emissions increase" set forth below:

- Net emissions increase means the amount by which the sum of the following exceeds zero:
  - Any increase in actual emissions from a particular physical change or change in method of operation at a stationary source; and
  - **Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.**
- **An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:**
  - **The date five years before construction on the particular change commences; and**
  - **The date that the increase from the particular change occurs.**
- An increase or decrease in actual emissions is creditable only if the Department has not relied on it in issuing a permit for the source under this regulation, which permit is in effect when the increase in actual emissions from the particular change occurs.
- An increase or decrease in actual emissions of sulfur dioxide or particulate matter, which occurs before the applicable baseline date, is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.
- An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
- **A decrease in actual emissions is creditable only to the extent that:**
  - The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;
  - It is enforceable at and after the time that actual construction on the particular change begins; and
  - It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.
  - It has not been adopted by the Department as a required reduction to be made part of the SIP, or it is not required by the Department pursuant to an existing requirement of the SIP.
- An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

The DAQ TRM pointed out that the Facility is not required to install the vapor vacuum control system at the truck terminal, and that this will reduce actual emissions in compliance with the above definition credible decrease. The DAQ TRM indicated that the pollution control equipment would be installed and operational before the rest of the Project, which satisfies the above definition's contemporaneous requirement.

The above review of Regulation 1125 supports interpreting it to allow the Applicants to seek permit to construct and operate the Project without any filing for Department preconstruction review under Regulation 1125. Delaware Audubon's comments seek to have the Department ignore the vapor vacuum pollution control system as part of the Project are contrary to the plain and clear meaning of Regulation 1125's definitions. It is reasonable and consistent with effective regulation to include the Project's pollution control system in calculating the Project's air emissions. Thus, the DAQ properly determined that the Project is not subject to Regulation 1125 and properly prepared the Draft Permits pursuant to Regulations 1102.

The Delaware Audubon comments also dispute whether the Project's emission reductions are "creditable" and enforceable. The DAQ TRM cited the applicable permit conditions 2.1.1, 2.1.2, 3.1.5, 3.1.6 as reducing VOCs emissions by 9.8 tons a year. I agree that the Draft Permits terms provide sufficient clarity to allow the Department to enforce the required VOCs reduction. I adopt the DAQ explanations that the Project is not regulated under Regulation 1125 because it will result in a 9.8 ton per year net decrease of VOCs emissions and, thus, is not a major modification within the meaning of Regulation 1125.

The second issue raised by the DAS' comments was that the Draft Permits are too vague to be enforceable. The DAQ TRM noted the existing permits' conditions in the Draft Permits and that they include clear enforceable provisions that fully and comprehensively regulate the

Project's air emissions. I agree that the Draft Permits incorporate or otherwise provide comprehensive regulation of the Project's air emissions, and that the terms are clear and not vague. As such, the Draft Permits are enforceable.

The DAS' third issue seeks to delay the Department's review until the conclusion of the appellate review of the Project's CZA permit. The DAS appealed the Department's CZA permit to the Coastal Zone Industrial Control Board ("CZICB"), dismissed the appeal based on appellants' lack of standing. *Delaware Audubon et al v DNREC, CZICB 2017-1*, issued March 16, 2017. The DAS appealed the CZICB decision to Superior Court, and this appeal remains pending at Docket N17A-03-007. The Department issued the CZA permit under the time constraints of the CZA in order that the Project may move forward, including the construction of the air pollution control equipment that will improve air quality. The Project's CZA permit remains in effect and DAS has not sought any stay of it. The DAS comments provide no reason for delaying the consideration of the Application other than an appeal is pending. If the appellate review results in a reversal or remand of the Department's CZA decision, then the Department would take appropriate action on any air pollution control permits issued for the Project. The DAS' comments do not provide sufficient support to delay the Department's decision on the Application, which would have the effect of staying the CZA permit until a final appellate decision for possibly years.

The DAS' fourth issue relates to the third issue in that it seeks to incorporate the CZA permit into the Project's air pollution control permits. I do not recommend that the Project's air pollution control permits include the CZA permit in order that the Department may take enforcement action under the CZA permit and the air pollution control permits for a violation of the CZA permit. The Project's air pollution control permits regulate air emissions and is subject

to DAQ's ongoing monitoring and inspections, while the CZA permit is under the administration of the Department's CZA program that monitors and otherwise ensures compliance with the CZA permit. Thus, I recommend no change to the Draft Permits to include the CZA permit's conditions as the Department is capable of enforcing the CZA permit without incorporating into other Department permits.

The DAS' fifth issue seeks to deny the Application based upon the Facility's allegedly poor track record on complying with the Department's permits. The comment cites Secretary's Order No. 2017-A-0017, issued March 9, 2017, for support of this action. The DAQ TRM addresses this issue by stating that "comments on DCRC shipping crude oil to destinations other than their Paulsboro, NJ facility have no bearing on the air permitting action sought here." I agree with DAQ's assessment of the crude oil and ethanol shipping issues. On August 25, 2017, the DAQ withdrew the revised MVRS Draft Permit. Thus, I find the DAS and Applicants' issues with the April 19, 2017 MVRS permit are now moot.

The DAS' seventh issue is with the Department's production of information under the FOIA. DAQ's TRM correctly replies that under the Department's FOIA procedures a FOIA request is separate from a pending permit application. The DAQ indicated that it provided all information that persons requested in this proceeding, and I am not aware of any claim that the DAQ failed to provide anyone information requested in this proceeding. Dr. Roe's request to delay scheduling the public hearing until the Department provided her with information under FOIA is unreasonable. The Department provides other means to gain documents other than to delay the scheduling of public hearings. In this proceeding, I received no request for any production of information and I am unable to respond to other requests for information under the FOIA.

The DAS' eighth issue requested real-time air monitoring along the Facility's fence line. The DAQ TRM responded that the Department would require fence line monitoring for benzene in 2018, but that DAQ did not recommend any additional monitoring. I defer to the DAQ's expertise and do not recommend that the Draft Permit include any more monitoring.

The DAS' ninth comment seeks to amend the Facility's emergency response and evacuation plan to reflect the increased ethanol storage and shipment. I find this request does not warrant any change to the emergency plan because the Facility has used ethanol since 2006. The Facility operates with an approved emergency plan that considers accidents and other problems. The DAQ TRM notes the Department's email and text notification system provides the nearby public with notice of any pollution released above allowed limits.

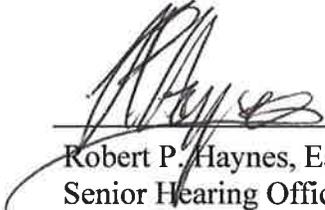
The tenth and final DAS issue seeks the Department's consideration of the cumulative impact of the Facility from the Project. As noted in the DAQ TRM, the cumulative impact is to improve air quality by reducing annual permitted emissions of VOCs by 9.8 tons. Thus, I find that the efforts to delay or oppose the Project to be contrary to improving the overall air quality.

In sum, the Applicants supported its Application to install new equipment and to modify existing equipment. The DAQ drafted the Proposed Permits and included terms and conditions that require periodic monitoring, testing, and reporting, and these terms and conditions will ensure that the Project operates within the prescribed limits.

I recommend that the Department's Order enter the following findings, reasons, and conclusions and orders:

1. The Department has jurisdiction under its statutory authority to make a determination on the Application following the public hearings;

2. The Department properly determined that the Application was complete and provided proper public notice of the Application and the Draft Permits;
3. The Department properly provided public notice of the public hearings on the Application and the Draft Permits;
4. The Department considered all public comments timely received and enters this Order based upon a Record established in the Report;
5. The Report and the DAQ TRM provide additional support for this decision and are adopted to support this decision;
6. The DAQ is authorized to undertake the actions to issue final permits based upon the Proposed Permits following any further review by the EPA; and
7. The Department shall provide public notice of this Order in the same manner as the public notice of the Application and shall publish this Order on its web page

  
Robert P. Haynes, Esquire  
Senior Hearing Officer

## MEMORANDUM

TO: Robert Haynes  
Hearing Officer

THROUGH: Ali Mirzakhali, P.E.  
Division Director

Angela D. Marconi, P.E., BCEE  
Engineer/Program Manager

FROM: Ravi Rangan, P.E.  
Environmental Engineer

Lindsay Rennie  
Environmental Engineer

SUBJECT: **Report on the Public Hearings for Delaware City Refining Company and Delaware City Logistics Company LLCs' Ethanol Marketing Project**

Permit: APC-1988/0125-C (A6)(MACT)(VOC RACT)(NSPS) – Terminal  
Permit: APC-1995/0471-C/O (A5)(LAER)(MACT)(NSPS) – MVRs  
Permit: APC-1980/0868-C/O (A5)(MACT)(VOC RACT) – Tank 206  
Permit: APC-1980/0869-C/O (A7)(MACT)(VOC RACT) – Tank 225

DATE: July 5, 2017

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### Background

Given below are the Division of Air Quality's (DAQ) responses to the comments made at the public hearings held on April 19 and June 5, 2017 regarding the Delaware City Refining Company (DCRC) and Delaware City Logistics Company (DCLC) LLCs' Ethanol Marketing Project. The Ethanol Marketing Project will utilize existing tanks, existing marine loading equipment, and modified truck loading operations to enable denatured ethanol handling, storage and loading at both the Delaware City Refinery Marine Piers and the Delaware City Sales Terminal. The Project would increase the ethanol throughput at Tank 206, repurpose Tank 225 for ethanol service, install lines to allow for ethanol loading at the Refinery Marine Vapor Recovery System (MVRs), and modify the Terminal Truck Loading Rack operations for ethanol loading.

The facilities applied for air and coastal zone permits. A coastal zone hearing was held on October 26, 2016 and a coastal zone permit was issued on December 27, 2016. The facilities applied for an air permit on August 19, 2016. Air hearings were held on April 19 and June 5, 2017.

### Review of Application and Public Hearing

The Division of Air Quality issued a public notice that it had developed draft permits for the Ethanol Marketing Project on Sunday, January 15, 2017 in the Sunday News Journal and the Delaware State News. A public hearing was requested and held on April 19, 2017 at the Delaware City Fire Hall located at 815 5<sup>th</sup> Street, Delaware City, Delaware to receive comments on DAQ's draft permit. On behalf of DNREC, Hearing Officer, Mr. Robert Haynes, conducted the public hearing. Prior to the public comments, a Division of Air Quality Environmental Engineer, Ms. Lindsay Rennie submitted documents to become part of the hearing record. The applicant representative, Mr. Tom Godlweski, Environmental Manager spoke on behalf of DCRC and DCLC, presenting background on the Project and expected emissions. One member of the public spoke at this hearing.

On Friday, April 28, 2017, Dr. Amy Roe, the only member of the public to request a hearing emailed a request to hold another public hearing on the basis that she was not personally informed of the scheduling of the public hearing. DNREC responded by holding a second public hearing on Monday, June 5, 2017.

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The public hearing transcripts, with comments received during the public hearings, were prepared by Wilcox & Fetzer, Ltd and was submitted to the Department on April 21, 2017 and June 12, 2017.

Your patience in awaiting DAQ's response is appreciated. We hope this response document will assist you in reviewing the issues raised at the two hearings and in making your recommendations to the Secretary. If you have any questions, please call either of us at (302) 323-4542.

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**Comments and DAQ Response**

The comments in the table below have been edited for clarity and brevity. Verbatim statements can be found in the Air Quality Hearing Transcripts prepared by Wilcox & Fetzer, Ltd or in the relevant letters submitted as part of the hearing record.

<b>General Public Comment Summary</b>	<b>DAQ Responses</b>
<p><b>BERNARD AUGUST, REPRESENTATIVE OF THE CONSERVATION COMMITTEE OF THE DELAWARE AUDUBON SOCIETY AND THE GREEN PARTY:</b></p> <p>How many environmental studies [exist] about the environmental impacts of ethanol mixed in with petro chemicals, basically gasoline, and the environmental impact of that in itself? So there are a lot of questions about even the value of using ethanol as a fuel additive to reduce air pollution, morally wise and chemically wise and environmentally wise to use ethanol. Because ethanol is a food source it has raised the price of food in this country on wheat products and things like that and food production costs. Does it make sense to have ethanol in fuel, period? The jury is out on anything above E15 worldwide if it's efficient to even use anymore.</p> <p>I would hope that in consideration of this permit that the external factors in the production of fired fuels to be inserted into petrochemicals be taken into consideration, because that has an environmental impact on those people growing in the area that grow corn, because we have permits here in Delaware about corn silos. The transportation of the ethanol can't be done by [the] pipelines that are presently built, so they will have to be bringing them in by tank cars, by trucks, which will be an issue in itself if they are bringing it in by trucks with all of the diesel fuel.</p> <p>It does not eliminate a lot of the production problems with chemicals being released from the processes using it. There are still the same toxic carcinogenic chemicals. On air pollution, carbon monoxide, it says in this 13-page report, is that it decreases E10 no further, and there is no further improvement using E15 or E20. E10 does decrease carbon monoxide, but there is no further improvement limit with using E15 or E20. The burning value of fuel doesn't stop the CO2. It doesn't decrease the dilution of benzene and 1-3 butotadimine. Acetaldehyde increases by two or threefold from the Australia report, which contributes to ground ozone formation, which we know we have a problem here in</p>	<p>DAQ does not find Mr. August's comments regarding the value of ethanol in fuel to be germane to the regulatory issues pertinent to the air program.</p>

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<p>Delaware already. And Formaldehyde another ozone level producer. Oxides of nitrogen, it doesn't reduce any of that. There is banfenol listed in the report, but there's a whole bunch of these things listed here about the effects of ethanol in the production and usage in petrochemicals. We are already suffering from a lot of pollution air quality problems, especially ozone.</p> <p>So if you are going to look at this situation about granting this permit, please study it a lot further, and look at the consequences of this, what we are doing for the special interests of the petroleum industry, and that for the overall benefit of society here in Delaware and on our planet, that we need to make a technological shift to renewable energies, which the technology is here to do.</p>	
<p><b>AMY ROE:</b>                      The permits that are proposed are legally inadequate and insufficiently supported. And the refinery must go through major source non-attainment new source review.</p> <p>The refinery's presentation said that the emissions were below the, quote, significant threshold, end quote. However, the refinery's proposed project will be considered a major modification under the Clean Air Act if the VOC emissions exceed 25 tons per year. And the refinery may not double count a reduction that that law required to have been in place already under a prior permit and/or pursuant to the implementation requirements of the Ozone National Ambient Air Quality Standards.</p> <p>The proposed permits are too vague do not assure compliance and, thus, fail to satisfy Title 5 requirements. Even if the state could avoid new source review, the permits are still unlawful and must be denied. They are vague. They fail to ensure compliance. And they lack adequate monitoring and public reporting. As such, they fail to satisfy Title 5 requirements. For example, condition 2.1 of the ethanol marketing permit, project permit, simply refers to "Delaware regulations." Failing to specify actual emissions limitations and your failure to put those into the permit makes the permit unlawful and violates public participation and notice requirements. The public is unable to review, understand, or comment on the permit without knowing what requirements, specifically, the State is implementing in the permit. Further, failing to put specific requirements into the permit</p>	<p>Dr. Roe's comments are repeated in more detail in her letter submitted as part of the hearing record. Responses can be found below.</p>

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<b>General Public Comment Summary</b>	<b>DAQ Responses</b>
<p>makes it difficult, if not impossible, to enforce. Condition 1.2 appears to defer requirements that should be put into the permit now before the project begins. This is unlawful, and it prevents the public from being able to comment now before the project is authorized. Similarly, there are no monitoring testing or operational limitations that implement any emissions limitations as required under federal regulations. The discussion of compliance methodologies does not show that there will actually be limitations on emissions or that there will be adequate monitoring, testing, or other requirements to assure compliance and to allow for enforcement if requirements are not followed.</p> <p>On the terminal permit, condition 2.1.3 appears to rely on EPA methodology 25A. That would not detect VOCs as ethanol, and it is not an acceptable method to use. And Method 18 or Method 320 should be used instead. This permit is missing emissions limitations, operational and monitoring and testing requirements. It additionally fails to ensure installation by a date certain. And it violates the applicable regulations and fails to show the public the permit will assure compliance and avoid increasing the air quality problems in our community.</p> <p>The project violates the Coastal Zone Act and is currently under appeal with the Delaware Superior Court. The Coastal Zone Act permit issued by DNREC Secretary David Small on December 28, 2016 for this project is in violation of the Coastal Zone Act and is under appeal in the Delaware Superior Court by the Delaware Audubon Society and the Delaware League of Women Voters. And all DNREC decisions for this project should be stayed pending the outcome of that appeal. The permit does not include the verifications necessary to ensure that the Coastal Zone Act conditions are met. Provisions for monitoring and oversight of bulk product transfer of ethanol that are included in the Coastal Zone Act permit, which is under appeal, and the air pollution permit are not enforceable by DNREC.</p> <p>DNREC has demonstrated on numerous past occasions that it relies upon self reporting for permit violations. And the Department is unable to oversee compliance to ensure that the permit conditions are met. Permitting should not proceed for any project without a compliance and enforcement provision defined in the permit. This permit lacks such provisions and, therefore, should be denied. The refinery has a poor track record with compliance and has misrepresented shipments of crude oil in the past. As a result of that,</p>	

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<p>the refinery has received a recent violation order from DNREC for a similar activity.</p> <p>The Division of Air Quality's proposed amendment does not meet the required public notification threshold. On April 19, 2017, the Division of Air Quality submitted a memo to amend the permit APC 1995, which appears to use this permit opportunity for the ethanol marketing project to amend the air quality permit for the marine vapor recovery system to further enforce the 2013 Secretary's order limitation that crude oil can only be shipped to Paulsboro. As of this morning, this memo had not yet even been posted on the DNREC website with this permit. DNREC should not be allowed to make those modifications to permits without public notice of the intent of those changes and the opportunity for the public to have a hearing on those specific changes. And such changes are in violation of the public trust.</p> <p>DNREC has failed to disclose information about this project through the Freedom of Information Act...</p> <p>The permit should require real-time fence-line air monitor inclusion monitoring. Air quality monitoring has been a longstanding point of concern at the refinery, and the members of the community have asked for real-time monitoring at the fence-line of the refinery and residential neighborhoods on numerous occasions since the refinery was purchased by PBF in June of 2010.</p> <p>In September of 2015, the EPA released an updated Clean Air Act standard that will reduce the toxic burden on communities living next to oil refineries. The new rule requires continuous monitoring of benzene concentrations, even at very low levels, using sensor strips around the refinery. Since the compliance deadline for the new rule is within the permit life cycle, any additional permits issued by DNREC for the Delaware City Refinery should include real-time fence-line monitoring with an internet interface that provides real-time reporting.</p> <p>The proposal lacks an emergency response and evacuation plan. Ethanol is a highly volatile pollutant with weak characteristics from crude oil during train derailments, railcar accidents, and water-borne spills. The Delaware City Refinery has had major pollution</p>	

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<p><b>General Public Comment Summary</b></p>	<p><b>DAQ Responses</b></p>
<p>events in the past for which no safety plan has gone into effect that alerts residents of the measures that must be taken to protect the health of families. But, as a condition of this permit, we ask for collaborative development of a robust and easily accessible emergency response evacuation plan that community members can reference in the case of a major accident. And, finally, we ask that the permit address cumulative health risks and pollution. Increases in pollution levels requested in this permit application are of particular concern in the area of the refinery which has been identified as a census tract by cancer. According to the Centers of Disease Control Prevention and the Department of Health and Social Services, the area surrounding the refinery is a high cancer census tract. The relationship between public health and hazardous air pollutants emitted from the refinery has not been addressed in the permit application which, instead, proposes to increase harmful air pollutants. We request that the cumulative health impacts of hazardous pollutants from the Delaware City Refinery, in conjunction with the numerous other polluting facilities in the area immediately surrounding the refinery be utilized to set the limits.</p>	<p>DAQ does not find Mr. Martell's comments on PBF's business model, shareholder interests etc. to be germane to the applicable permitting requirements specified in 7 DE Admin. Code 1102 and 1130.</p>
<p><b>MARK MARTELL, REPRESENTATIVE OF THE DELAWARE AUDOBON SOCIETY</b> MR. MARTELL: Who is the target market for the ethanol? Where is it going? Not Paulsboro? Could it be more than Paulsboro? MR. GODLEWSKI: It could be -- we have not specified a destination. So I will say facilities wherever the market condition will take it. I don't know where this ethanol is targeted to go. MR. DEEMER: There is no restriction in the permit for the destination of ethanol. MR. MARTELL: Thank you for clarifying that. I guess that was the first question.</p>	<p>DAQ also finds Mr. Martell's comment on DCRC shipping crude oil to destinations other than their Paulsboro, NJ facility to have no bearing on the air permitting action sought here. The shipment of crude oil to locations other than Paulsboro is an enforcement issue which the Department has addressed in a separate action.</p>
<p>The second one is I'm trying to follow the ownership track. PBF Logistics is a relatively new business. It's a master limited partnership. It has got the cessation-level taxation. It's in that mid-market stream of managing the product as it arrives at the refinery. Now, the ownership first changing hands, and the refinery has been attributing assets down to MLP, I mean contributing certain things. And you are telling shareholders that there is more assets at the refinery that have been attributed down. In recent financials you guys are saying that you are looking to perhaps transfer --if the refinery solsters down, the rest remaining assets may go to PBF Logistics. So one of the things that you mention in your financials is that</p>	

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<p>the material, itself, that PBF Logistics would like to be able to sell itself -- that means it will have to take it to a commodity. That means you have to go to the commodity trade, which it is not in the business of doing that. So the reason why I'm asking the question about who is the ethanol targeted to and where is it going is to try to follow the ownership from cradle to grave, you know, how do you get it, where does it come from, who owns it, where is the asset you transfer, and where is PBF Logistics in this business? Can it be a business that survives if you guys go with the (inaudible) to do bulk transfer after the refinery stage arguably could shut down?</p> <p>MR. GODLEWSKI: I am not an expert on the MLP issues and how MLPs are set up and structured. I'm not sure I can answer your question.</p> <p>MR. MARTELL: I guess the other issue with this permit, itself, is when you're asking for a permit approval, you're asking for faith and trust that the refinery is going to follow through with exactly what they said they are going to do. And in our public comments... are various discussions that we have been able to find from Freedom of Information Act that we find that there is a serious question about communication, both between DNREC and the Refinery. We have some serious issues about how can we have such misunderstandings as to where the Refinery can distribute their crude oil to. And we are winding up in a situation now where the Refinery and DNREC are in a dispute over that material. How does that relate to this ethanol request is along the same lines, because you are asking us to have faith as a public that the materials that they say they're restricting to whatever location they say is actually going to be followed through. In the case of oil, they were limited to just doing Paulsboro, but they wound up doing it to third parties. And then they self-reported that they had delivered to additional third parties that wasn't part of the permit. So this raises questions for us twofold. The question is the Refinery's communications with you guys, and the other side of that is your communications with the Refinery. There seems to be a complete disconnect. And it's something that, as a public, we have really deep concerns about. And that relates to this permit, as well.</p> <p>So our fear is that they are turning this facility away from what it historically has been, which has been nothing but a refinery, to a third-party, bulk product transfer facility where they are looking to do additional things to generate an additional margin of revenue associated with not only the core products, but also some ancillary products.</p>	<p>DAQ recognizes that Mr. Martell and the Audubon Society continue to express their concern about whether DCRC's facility is a refinery as well as a bulk product transfer facility. DAQ notes that this issue has been rendered moot by the Department's issuance of a Coastal Zone permit for the Ethanol Marketing Project on 12.27.2016.</p>

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<p>We don't know that ethanol is just the first stop on the way to actually looking at other additives. Maybe there are other things that the Refinery brings in as source raw materials that they add to their mix to make the various gasolines and byproducts that they make, that those materials can also be subject to third-party distribution if they found that there is a market for it. And so we have the question that we are wondering if this is a first call for possible calls for other ancillary businesses. And, again, it raises the question is this a refinery, or is this a bulk product transfer facility? This is the reason why we have had this Coastal Zone Act challenge. It extends into these air permits that we have going back to 2013, which is a serious question about whether or not this is, indeed, a new form of bulk product transfer.</p> <p><b>SARAH BUCIC:</b> It doesn't seem that full consideration for the health and cumulative impacts on the local community have been accounted for with this current project. In 2012, Delaware Health and Social Services reported in Delaware's Cancer Incidence and Mortality Report, they noted that Delaware City was located within an [elevated] cancer census tract. And I received this card in the mail when I lived in Delaware City. And as a [cancer] survivor and Delaware resident, it does not seem like all costs have been accounted for with this project as submitted. And it would seem that a full review of public health and community risks for a project of this size and impact should be required, as well as follow-up information of how realtime fence-line monitoring will be performed per the current EPA requirements. Also, there is an expected influx of future residents into the Fort DuPont area of the Delaware City waterfront, so a robust emergency response plan with community outreach should also be required.</p>	<p>DAQ disagrees with Ms. Bucic that it has not given full consideration for the health and cumulative impacts on the local community. DAQ is satisfied that the Ethanol Marketing Project will result in an overall reduction in VOC emissions from the refinery. Furthermore, DAQ's review of the NIOSH Guide to Chemical Hazards did not identify ethanol as a carcinogen.</p>
<p><b>AMY ROE &amp; MARK MARTELL, REPRESENTATIVES OF THE DELAWARE AUDUBON SOCIETY</b> [The text of this letter has been abbreviated, please see original for full text]</p> <p>1. <u>The proposed permits are legally inadequate and insufficiently supported, and the refinery must go through major modification nonattainment new source review.</u></p>	<p>This project does not result in a major modification under NSR. Section 1.9 of 7 DE Admin. Code 1125, defines a major modification as follows:</p> <p><i>Major modification means any physical change or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the C.A.A.</i></p>

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<p>The refinery may not double count a reduction that the law required to have been in place already under a prior permit and/or pursuant to the implementation requirements for the ozone NAAQS. The 17 TPY reductions should already have occurred under existing NAAQS requirements, and thus these regulations prohibit crediting of this reduction in the current permit process. Delaware has admitted that the reduction proposed is RACT and has labeled it as such.</p>	<p>Further, "Net emissions increase" is defined as:  <i>"Net Emissions Increase"</i></p> <ul style="list-style-type: none"> <li>• <i>Net emissions increase means the amount by which the sum of the following exceeds zero:</i></li> <li>• <i>Any increase in actual emissions from a particular physical change or change in method of operation at a stationary source; and</i></li> <li>• <i>Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.</i></li> </ul> <p>NANSR was not triggered in this case because the project results in an overall reduction of 17 TPY VOC emissions as described in DCRC's application and DAQ's review memorandum. Furthermore, DAQ disagrees with the contention that the 17 TPY reductions would already have occurred under existing NAAQS requirements. The 17 TPY reductions are attributable only to the enhanced capture efficiency of 100 % as a result of this project by the installation of a vacuum assist system at the truck loading rack. There are no NAAQS requirements mandating increasing the capture efficiency of the existing controls at the truck loading rack.</p> <p>DAQ agrees with Dr. Roe that the affected storage tank permits are labeled as RACT because a RACT level of control was determined to be applicable in accordance with the relevant Control Technique Guidelines for storage vessels. In this instance, Tank 206 is a storage tank with a fixed roof and an internal floating roof with double seals and Tank 225 is an External Floating Roof Tank with double seals both of which satisfy RACT requirements in 7 DE Admin Code 1124. However, DAQ disagrees with Dr. Roe's assertion that the 17 TPY reductions are attributable to the existing RACT level of controls for these storage tanks. Instead, as explained above the</p>

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<p>For a reduction to be a creditable emission decrease, it must be “contemporaneous” with the proposed increase. “An increase or decrease in actual emissions is contemporaneous with the increase from a particular change only if it occurs <u>before the date</u> that the increase from the particular change occurs”. The permit material shows <u>that</u> the project’s proposed emission increases are expected to occur <u>upon commencement of operations</u> of the changes causing increased emissions. Thus the 17 TPY reduction is not contemporaneous and is not creditable.</p> <p>To be creditable, the reduction must be “enforceable”. The permit conditions do not contain monitoring, record keeping, and reporting requirements sufficient to allow the 17 TPY emission reduction to be federally enforceable. There is no condition in the permit that ensures any such reduction will happen, much less that it will be at least this much, or that provides any requirements to assure compliance with such a condition.</p> <p>The state has not “specified” that this will occur “within a reasonable period” including “at and after” the commencement of construction, the reduction is not creditable.</p>	<p>reductions are attributable to the enhanced capture efficiency of 100 % compared to 98.7 % as it exists presently at the Marketing Terminal.</p> <p>The decrease is creditable because it is contemporaneous as defined in Section 1.9 of 7 DE Admin. Code 1125 under “Net Emissions Increase”.</p> <ul style="list-style-type: none"> <li>• <i>An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:</i> <ul style="list-style-type: none"> <li>• <i>The date five years before construction on the particular change commences; and</i></li> <li>• <i>The date that the increase from the particular change occurs.</i></li> </ul> </li> </ul> <p>Dr. Roe claims that the increase and the decrease are not contemporaneous because they will occur on the same date. This is largely semantics. The regulation requires the decrease to occur before the increase. The decrease will occur once the VaVaC system is operational. The increase will occur when the Refinery begins loading ethanol at the Marketing Terminal. The construction of the VaVac system must be completed first and be operational before the Refinery is allowed to load any ethanol.</p> <p>The emissions decrease is creditable because it is enforceable as defined in Section 1.9 of 7 DE Admin. Code 1125.</p> <p><i>“Enforceable” means any standard, requirement, limitation or condition established by an applicable federal or state regulation or specified in a permit issued or order entered thereunder, or contained in a SIP approved by the Administrator of the U.S. Environmental Protection Agency (EPA), and which can be enforced by the Department and the Administrator of the EPA.</i></p> <p>The use of the Vapor Vacuum Control (VaVaC) system is necessary to attain an actual 17 TPY reduction and is enforceable as the Permit Conditions 2.1.1, 2.1.2, 3.1.5, 3.1.6,</p>

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<p>The exception for maintenance periods is unlawful because emission standards apply at all times. The state cannot allow operation during any time period with no controls and show the reduction is enforceable. During the maintenance down-time emissions could increase, and there is no indication that this would not undermine the projected decrease.</p> <p>Because the state and refinery company have not shown that the 17 TPY reduction is creditable, they may not rely on it to avoid NSR review.</p>	<p>4.3, 5.2.3, 5.2.4 and 5.2.7 are state and federally enforceable emission, operational, monitoring and recordkeeping conditions that require its use.</p> <p>Condition 2.1.1 reduces the permitted emission limitation by 26.9 TPY; this reduction is only possible through use of the VaVaC system.</p> <p>Condition 2.1.2 limits the permitted fugitive emissions to 4.4 TPY; at full operation this allows for no more than a 10% downtime of the VaVaC system.</p> <p>Condition 3.1.5 requires the VaVaC system to operate at all times excluding maintenance at 100% capture efficiency.</p> <p>Condition 3.1.6 requires pressure gauges to monitor the VaVaC system operation.</p> <p>Condition 4.3 requires a compliance demonstration proving the VaVaC system will operate as expected.</p> <p>Condition 5.2.3, 5.2.4 and 5.2.7 contain recordkeeping requirements to determine compliance.</p> <p>DAQ has reviewed the application and is satisfied that the proposed controls will in fact result in a gross decrease in emissions of 17 TPY.</p> <p>Dr. Roe claims that the maintenance exception is unlawful because it allows for time periods of no control, and that this could result in less than expected reductions. Dr. Roe's understanding of the VaVaC system is incorrect. The VaVaC system is in addition to existing control devices; it does not serve as a replacement. As stated in Condition 3.1.5, during maintenance periods of the VaVaC system, the Marketing Terminal must maintain a capture efficiency of no less than 98.7%. The permit does not allow the Marketing Terminal to operate unless either the Vacuum Recovery Unit (VRU) or the Vapor Combustion Unit (VCU) is also operating. Moreover, the</p>

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<p>2. <u>The proposed permits are too vague and do not assure compliance, and thus fail to satisfy Title V requirements.</u></p> <p><u>Ethanol Marketing Project Permit:</u>                      Condition 2.1 simply refers to Delaware regulations. Failing to specify actual emission limitations and put those into the permit makes the permit unlawful, and violates public participation and notice requirements.                      Condition 2.1.3 states that emission from the MVR system "shall meet those already specified in the existing permits for operations describe above." ...the permit is not lawful without specific conditions.                      Condition 1.2 appears to defer requirements that should be put into the permit now, before the project begins.                      There is no monitoring, testing, or operational limits that implement any emission limitations as required by federal regulations. The discussion of compliance methodology does not show that there will actually be limitations on emissions, or that there will be adequate monitoring, testing, and other requirements to assure compliance, and to allow for enforcement if requirements are not followed.                      It is unclear why tanks 206 and 225 are not subject to NSPS. There is no explanation of this in the record.</p>	<p>expected reduction of 17 TPY already takes into account up to 10% annual downtime of the VaVaC system.</p> <p>The Refinery Ethanol Marketing Project Permit is a supplement to three existing Reg. 1102 Refinery permits listed in the first footnote of the Permit. As such, it routinely refers back to the main permits. Condition 2.1 is a boiler plate catch-all condition that restates that all permits must meet Delaware regulations whether or not they show up in the permit. Condition 2.1.3 refers back to <u>Permit: APC-1995/0471-O(A3)</u>. Condition 1.2 refers to an administrative process by which the conditions of a Reg. 1102 permit are incorporated into the Title V Permit. The loading of ethanol does not require monitoring or testing beyond those already listed in existing permits. Therefore, the Permit as a supplement does not re-list them. Tank 206 is already subject to and meets NSPS requirements. Tank 225 is not subject to NSPS because it was constructed before 1978. This modification does not make it NSPS applicable because it does not increase the emission rate compared to the emission rate at construction (40 CFR 60.14).</p> <p>The permit requires the Refinery to use the Vapor Vacuum Control (VaVaC) system at all times that it is available; turning it off outside of maintenance or malfunction is not permitted. Condition 2.1.1 reduces the permitted emission limitation by 26.9 TPY; this reduction is only possible through use of the VaVaC system. Condition 2.1.2 limits the permitted fugitive emissions to 4.4 TPY; at full operation this allows for no more than a 10% downtime of the VaVaC system. DAQ recognizes that it is certainly possible for DCRC to operate the new system with downtimes less than 10 % and DAQ expects DCRC's operation of the VaVac system to conform to good air pollution control practices. Nonetheless, DAQ believes it is reasonable for</p>

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<p>The terminal permit contains no reference to federal MACT requirements for unloading and loading operations. The permit conditions do not reflect the level of control; the limits are only related to the 10% downtime. The source should not be granted an assumption of 10% downtime in this manner if it can operate with less downtime.</p> <p>Condition 2.1.3 appears to rely on EPA Method 25A. But that would not detect VOCs as ethanol. It is not an acceptable method to use. Method 18 or Method 320 should be used instead.</p> <p>The permit is missing emission limitations, operational, and monitoring and testing requirements. It additionally fails to ensure installation by a date certain.</p>	<p>the permit to provide for up to 10 % down time for maintenance and repair. Indeed, DAQ's experience confirms that well maintained systems yield better performance over the long run as compared to poorly maintained systems.</p> <p>DAQ disagrees with Dr. Roe that Reference Method 25A (RM25A) would not detect VOC emissions as ethanol. RM25A is an approved method to determine total gaseous organic concentration using a flame ionization analyzer, with the concentration being expressed typically as propane or as carbon.</p> <p>The Terminal Permit is a complete Reg. 1102 permit and contains annual and hourly emission limitations, and several operational, testing and monitoring requirements as noted in Item 1 above. As construction projects vary in length, facilities are given three years to complete construction permits and to request an operation permit before their Construction Permit expires. The Refinery will not be granted permission to load ethanol until construction of the VaVaC system is complete.</p>
<p>3. <u>Project violates the Coastal Zone Act and is currently under appeal with the Delaware Superior Court.</u></p> <p>The Coastal Zone Act Permit issued by DNREC Secretary David Small on December 28, 2016 for this project is in violation of the Coastal Zone Act and is currently under appeal in the Delaware Superior Court by the Delaware Audubon Society and the Delaware League of Women Voters. The Coastal Zone Act prohibits the new development of heavy industry in protected areas, as well as offshore gas, liquid and solid bulk product transfer facilities not in development prior to the Act becoming law. At the heart of the appeal is the contention that DNREC Secretary David Small has made a decision contrary to the Coastal Zone Act by allowing a new bulk product transfer facility within the Coastal Zone at the Delaware City Refinery. All DNREC decisions for this project should be stayed pending the outcome of the appeal.</p>	<p>DAQ recognizes the continued concern about whether DCRC's facility is a refinery as well as a bulk product transfer facility. DAQ notes that this issue has been rendered moot by the Department's issuance of a Coastal Zone permit for the Ethanol Marketing Project on 12.27.2016.</p>

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<p>4. <u>Permit does not include the verification necessary to insure the Coastal Zone Act conditions are met.</u> Provisions for monitoring and oversight of the bulk product transfer of ethanol that are included in the Coastal Zone Permit, under appeal, and the Air Pollution Permit are not enforceable by DNREC. DNREC has demonstrated on numerous occasions that it relies upon self-reporting for permit violations, and the Department is unable to oversee compliance to ensure the permit conditions are met.</p>	<p>DAQ uses both self-reporting requirements and regular inspections to ensure and determine compliance.</p>
<p>5. <u>Refinery has a poor track record with compliance and has misrepresented transshipments of crude oil in the past.</u> Delaware City Refinery misrepresented their transshipments of crude oil to the State of Delaware on numerous occasions since their 2013 Marine Vapor Recovery Permit.</p>	<p>Comments on DCRC shipping crude oil to destinations other than their Paulsboro, NJ facility have no bearing on the air permitting action sought here. The shipment of crude oil to locations other than Paulsboro is an enforcement issue which the Department has addressed in a separate action.</p>
<p>6. <u>Refinery has a recent violation order from DNRC for a similar activity.</u> On March 9, 2017, the State of Delaware issued a Secretary's Order and Administrative Penalty Assessment against PBF Energy's subsidiary Delaware City Refining Company for engaging in unlawful third party distribution through Delaware City. Secretary's Order No. 2017-A-0009 assessed a \$150,000 administrative penalty [for] shipping crude oil to third parties.</p>	<p>DAQ is not required to resubmit for public review changes made to a Draft permit. Regardless, due to the extension of the public comment period, this inclusion was made available to the public at both the Dover and New Castle offices for the duration of the second public notice period.</p>
<p>7. <u>Division of Air Quality's proposed amendment does not meet the required public notification threshold.</u> On April 19, 2017 the DAQ submitted a memo to amend the permit APC-1995/0471 which appears to seek to use this permit opportunity for the Ethanol Marketing Project [to] amend the air quality permit for the MVRS to further enforce the 2013 Secretary's Order limitation that crude oil can only be shipped to Paulsboro. As of [the morning of June 5<sup>th</sup>], this memo has yet to be posted on the DNREC website for this permit.</p>	<p>DAQ is not required to resubmit for public review changes made to a Draft permit. Regardless, due to the extension of the public comment period, this inclusion was made available to the public at both the Dover and New Castle offices for the duration of the second public notice period.</p>
<p>8. <u>DNREC has failed to disclose information about this Project via the Freedom of Information Act.</u> The Delaware Audubon Society has filed a complaint with the AG's Office for denying FOIA requests pertaining to this project. Because DNREC has purposely withheld information from the public about [the] refinery's bulk product transfer</p>	<p>DAQ disagrees. Permitting actions and the FOIA procedure are separate processes. DAQ has made available to the public all required</p>

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<p>operations, DNREC has prevented the public from having a full and complete understanding of the project. In her public hearing request, Dr. Roe asked that the public hearing for this permit be scheduled such that the FOIA documents are first made available. DNREC should not proceed with a public hearing and closure of a comment period on a permit while knowingly coordinating to prevent information from being disclosed via the FOIA. <b>We therefore request that the public comment period for this permit be extended until 60 days following the completion of our FOIA request.</b> [Original Emphasis]</p>	<p>documents relevant to the Ethanol Marketing Project air permits.</p>
<p>9. <u>Permit should require real-time fence-line air pollution monitoring.</u> While owned by Premcor, the refinery operated ambient air monitoring stations for total suspended particles. In May 31, 2010 "Agreement Governing the Acquisition and Operations of Delaware City Refinery" Secretary O'Mara authorized the refinery to discontinue use of ambient air quality monitors [under PBF]. The Delaware City Environmental Coalition, under the oversight of DNREC's Community Involvement Advisory council, contracted with an independent local environmental consulting firm for air quality monitoring for a pilot project that compared air quality in residential neighborhoods before and after the refinery restart. This air monitoring pilot project demonstrated the need for continuous air monitoring at the fence-line of the refinery and in residential neighborhoods to insure compliance with permit conditions and to protect public health. In September 2015, the EPA released an updated Clean Air Act Standard that...requires continuous monitoring of benzene concentrations, even at very low levels, using sensors that surround the refinery. Since the compliance deadline for the new rule is within the permit lifecycle, any additional permits issued by DNREC for the Delaware City Refinery should include real-time fence-line monitoring with an internet interface that provides real-time reporting. Communities need strong, real-time monitoring provisions to protect their health and safety by providing real-time information into an alert system used to warn people when there is a malfunction or emergency, which is a major problem with refineries.</p>	<p>The new fence-line monitoring provisions go into effect in 2018. They pertain to monitoring of benzene fence-line concentrations and are not germane to the regulatory requirements of this permitting action.</p>
<p>10. <u>Proposal lacks an emergency response and evacuation plan.</u></p>	<p>The Delaware Environmental Release Notification System (DERNS) is available to community members. It is a system</p>

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<p>Ethanol is a highly volatile pollutant with unique characteristics form crude oil during rain derailments, rail car accidents, and water-borne spills. The Delaware City Refinery has had major pollution events in the past, for which no safety plan has gone into effect that alerts nearby residents of the measures that must be taken to protect their health and families. <i>As a condition of this permit, we ask for the collaborative development of a robust and easily accessible Emergency Response and Evacuation Plan that community members can reference in case of a major incident.</i> [Original Emphasis]</p>	<p>that provides email and text message notification regarding all releases above a pollutant specific Reportable Quantity.</p>
<p>11. <u>Permit must address cumulative health impacts and pollution.</u>                      The increases in pollution levels requested in the permit application are of particular concern as the area surrounding the refinery has been identified as a census tract of high cancer risk. The relationship between public health and the HAPs emitted from the Delaware City Refinery has not been addressed in this permit application, which instead proposes to increase HAPs. We request that the cumulative health impacts of HAPs from the Delaware City Refinery, in conjunction with the numerous other polluting facilities in the area immediately surrounding the refinery, be utilized to set pollution limits.</p>	<p>The permit application did not request an increase in allowable emissions. The permitted emission limitation at the Marketing Terminal will decrease by 26.9 tons per year. DCRC has not requested an emission limitation increase in the Marine Vapor Recovery System Permit at the Marine Piers. Any increased activity will be confined by their current permitted emission limitations.</p>
<p><b>JOHN DEEMER, LETTER ON BEHALF OF THE DELAWARE CITY REFINING COMPANY</b>                      [The text of this letter has been abbreviated, please see original for full text]</p> <p>During the Public Hearing, DNREC identified proposed revisions to the existing air permit for the MVRS (the "MVRS Permit"), pursuant to which the permit would purport to restrict DCRC from loading crude oil onto barges at the refinery's existing docking facility, if such barges were destined for locations other than the refinery in Paulsboro, New Jersey (the Paulsboro Refinery"). DCRC expressly objects to this proposed Draft Air Permit Modification and this purported restriction on the destination of barges loaded with crude oil at the DCRC docking facility.</p> <ul style="list-style-type: none"> <li>• DCRC has fully complied with all requirements under the Secretary's Order. Neither the Secretary's Order nor any other applicable regulatory or permit-based standard</li> </ul>	<p>DAQ disagrees. The MVR Permit (Permit: <b>APC-95/0471-O (A3)</b>) dated May 31, 2013 was issued based on the findings in Secretary's Order No. 2013-A-0020). This Order was issued contingent on DCRC's representation that crude shipments from DCRC will only be shipped to Paulsboro. Therefore, DAQ is amplifying this permit to restrict crude shipments from DCRC only to PBF's Paulsboro facility.</p>

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	<p>included a restriction on the destination of crude oil shipments originating at the Refinery.</p> <ul style="list-style-type: none"> <li>• The Coastal Zone Act was not applicable to the proposed crude oil loading and shipment activities and DCRC did not require or request authorization under the Coastal Zone Act. In considering the proposed crude oil loading and transfer activities, DNREC determined that no action under the Coastal Zone Act was required; it did not issue or deny any Coastal Zone Act permit nor status decision. DNREC issued the Secretary's Order to resolve <i>the pending air permit application</i> [Original Emphasis], and issued an air permit to authorize the requested crude oil loading and transfer activities.</li> <li>• The Secretary's Order authorized the issuance of an air permit to allow the crude oil loading and transfer activities, and such permit imposes specific restriction on various activities and parameters...[that] bears in some part on air emissions that might result from crude oil loading activities at the docking facility. The 2013 air permit did not include even a single provision that limits in any respect the destination of the marine vessels leaving the docking facility at the refinery...because there is not legitimate regulatory basis to impose a limitation on marine vessel destination in the context of an air permit governing marine loading activities.</li> <li>• The applicability of and compliance with the Coastal Zone Act can in no way be related to the destination of marine vessels loaded with crude oil at the refinery's docking facility.</li> <li>• The Secretary's Oder included only such provision as necessary to justify and accomplish issuance of the 2013 air permit, and could not thereby impose any restriction or standards under the Coastal Zone Act. The issues is not whether DCRC intended to ship crude oil to the Paulsboro Refinery, but whether the 2013 air permit authorization was <i>limited</i> [Original Emphasis] to the Paulsboro Refinery. The single reference statement from the Secretary's Order does not constitute any formal directive, finding or conclusion. Furthermore, the statement itself is an inaccurate characterization of DCRC's statements on the record about the potential destination of crude oil.</li> <li>• DNREC's proposal to issue the Draft Air Permit Modification and include within the MVRS Permit a purported limitation on the destination of marine vessels loaded with crude oil at the Refinery cannot be justified as consistent with any legal standard under</li> </ul>	

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<p>federal or state law regarding air quality requirements. The destination of the marine vessels cannot affect in any way the type, quantity or control of air emissions associated with crude oil loading activity; the purported limitation therefore cannot be defended as appropriately related to any air quality objective that may be addresses in air permit conditions.</p> <ul style="list-style-type: none"><li>• In issuing in 2013 the air permit modification <i>relevant to crude oil loading activity</i> [Original Emphasis] DNREC appropriately did not include a single provision that limits in any respect the destination of the marine vessel leaving the docking facility at the refinery. Based on established principles of administrative law, DNREC has no basis to now purport to include restrictions relevant to crude oil loading at the docking facility through the Draft Air Permit Modification, particularly since DCRC did not request any such permit condition through any permit application, and there has been no intervening change in law giving rise to the inclusion of a new permit condition in the permit for the MVRS.</li><li>• The DNREC Technical Memo identifies no basis or justification for issuance of the permit amendment or imposition of the restriction on crude oil transfer destination, except by reference to the single statement in the Secretary's Order.</li><li>• The Secretary's more recent issuance to DCRC of Notice of Administrative Penalty Assessment and Secretary's Order No. 2017-A-0009 does not change this analysis. To the extent that this recent Secretary's Notice purports to restrict the conditions under which DCRC could ship crude oil to destinations other than the Paulsboro Refinery by stating that DCRC should first secure a status decision under the Coastal Zone Act, such Notice remains subject to DCRC's rights to contest any such directive.</li><li>• The Secretary's Notice is expressly issued relative to Coastal Zone Act considerations, and cannot form the basis for a condition in a distinct air permit.</li><li>• The proposed imposition of the new air quality permit condition is inconsistent with the process identified in the Secretary's Notice, and could necessitate a modification to an air permit as a result of a status decision process under the Coastal zone Act. Any such requirement is inconsistent with applicable legal standards.</li></ul>	

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**COMMENTS**

DAQ has added the conditions below to further clarify that DCRC and DCLC may not conduct loading of ethanol neither at the Marine Piers nor at the Sales Terminal until after subsequent issuance of the amended Sales Terminal operating permit. Issuance of the amended Sales Terminal operating permit is dependent on successful demonstration of the Vapor Vacuum Control System to be installed at the Sales Terminal.

**DCRC Ethanol Marketing Project Permits**

- 1.3 The owner or operator shall not conduct loading of ethanol at the Marine Piers nor at the Sales Terminal until successful demonstration of the Vapor Vacuum Control System at the Sales Terminal and the subsequent issuance of the amended Sales Terminal operating permit.

**DCLC Permit: APC-1988/0125/CONSTRUCTION (Amendment 6)(MACT)**

- 1.7.4 The owner or operator shall not conduct loading of ethanol at the Marine Piers nor at the Sales Terminal until successful demonstration of the Vapor Vacuum Control System at the Sales Terminal and the subsequent issuance of the amended Sales Terminal operating permit.

**RECOMMENDATIONS**

DAQ has prepared the revised "Proposed" Permits for the Ethanol Marketing Project for the Department's review of comments, findings, and suggestions. DAQ recommends submitting the attached permit and revised technical reference memorandum as part of the hearing record.

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## MEMORANDUM

TO: Robert P. Haynes, Esq.  
Hearing Officer

THROUGH: Ali Mirzakhali, P.E. *AM*

FROM: Angela D. Marconi, P.E., BCEE *ADM*

SUBJECT: **Permit: APC-1995/0471 – C/O (Amendment 5)(LAER)(MACT)(NSPS)**  
Crude Oil Shipment Limitation

DATE: August 18, 2017

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### **BACKGROUND and DISCUSSION**

The Delaware City Refining Company (DCRC) owns and operates a docking facility as part of its Delaware City Refinery. On May 31, 2013 Secretary's Order No. 2013-A-0020 was issued allowing DCRC to ship by barge unrefined North American crude oil from the Delaware City refinery to their sister refinery in Paulsboro, New Jersey. Following discovery by the Department that shipments of crude oil to refineries other than the Paulsboro refinery occurred, Secretary's Order No. 2017-A-0009 was issued on March 9, 2017. This order assessed an administrative penalty for the shipments to unauthorized locations.

Due to this sequence of events, DAQ drafted a revision to **Permit: APC-1995/0471-CONSTRUCTION/OPERATION (Amendment 5)(LAER)(MACT)(NSPS)**. The drafted revision inserted condition 3.2.1 which stated, "The crude oil from the Delaware City Refinery shall only be shipped to PBF's Paulsboro, New Jersey refinery."

Following the hearing held on June 5<sup>th</sup> and the technical response memo dated July 5<sup>th</sup>, the Department has reconsidered inclusion of this condition in the air permit and is accordingly withdrawing that recommendation. The restriction on the destination of shipments may be addressed via other regulatory means.

### **RECOMMENDATIONS**

We recommend removal of condition 3.2.1 as proposed in exhibit 6. Accordingly please disregard the permit and memo contained in exhibit 6. The permits in exhibit 3 remain valid.

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July XX, 2017

**Permit: APC-1988/0125-CONSTRUCTION (Amendment 6)(MACT)**

Delaware City Logistics Company  
Delaware City Sales Terminal  
River Road and J Street  
Delaware City, DE 19706

ATTENTION: James Fedena  
Vice President of Marketing and Logistics

Dear Mr. Fedena:

Pursuant to the State of Delaware Regulation No. 1102, Sections 2 and 12.3 and 7 **DE Admin. Code** 1130 Section 7.10, approval of the Department of Natural Resources and Environmental Control (the Department) is hereby granted for the construction of four (4) additional loading arms for each of lanes 4, 10 and 11 to load ethanol at the Terminal Unit 1 Truck Loading Rack and a vapor vacuum control system for loading lanes connected to the existing vapor recovery unit (VRU) located at the Delaware City Sales Terminal in Delaware City, Delaware, in accordance with the applications submitted on Form Nos. AQM-1, AQM-2, AQM-3.1, AQM-4.1, AQM-4.2, and AQM-5 dated August 11, 2016 signed by James Fedena, Vice President of Marketing and Logistics, and cover letter dated August 18, 2015 signed by Tom Godlewski.

This permit is issued subject to the following conditions:

**1. General Provisions**

- 1.1. This permit expires on July XX, 2020. If the equipment covered by this permit will not be constructed by July XX, 2020 a request to extend this construction permit must be submitted by July XX, 2019.
- 1.2. The project shall be constructed in accordance with the information described above. If changes are necessary, revised plans must be submitted and a supplemental approval issued prior to actual construction.
- 1.3. Representatives of the Department may, at any reasonable time, inspect this facility.
- 1.4. The owner or operator shall not initiate construction, install, or alter any equipment or facility or air contaminant control device which will emit or prevent the emission of an air contaminant prior to submitting an application to the

**Permit: APC-1988/0125-CONSTRUCTION (Amendment 6)(MACT)**

**Delaware City Logistics Company**

**Ethanol Marketing Project**

July XX, 2017

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Department pursuant to Regulation No. 1102, and, when applicable Regulation No. 1125, and receiving approval of such application from the Department; except as exempted in Regulation No. 1102 Section 2.2.

- 1.5. This permit may not be transferred to another location or to another piece of equipment or process.
- 1.6. This permit may not be transferred to another person, owner, or operator unless the transfer has been approved in advance by the Department. Approval (or disapproval) of the permit transfer will be provided by the Department in writing. A request for a permit transfer shall be received by the Department at least 30 days before the date of the requested permit transfer. This request shall include:
  - 1.6.1. Signed letters from each person stating the permit transfer is agreeable to each person; and
  - 1.6.2. An Applicant Background Information Questionnaire pursuant to 7 Del C, Chapter 79 if the person receiving the permit has not been issued any permits by the Department in the previous 5 years.
- 1.7. The applicant shall, upon completion, installation, or alteration, request in writing that the Department grant approval to operate.
  - 1.7.1. A separate application to operate pursuant to **7 DE Admin. Code 1102** does not need to be submitted to the Department for the equipment or process covered by this construction permit. Upon satisfactory demonstration by an on-site inspection that the equipment or process complies with all of the terms and conditions of this permit, the Department shall issue a **7 DE Admin. Code 1102 Operating Permit** for this equipment or process.
  - 1.7.2. The applicant shall notify the Department sufficiently in advance of the demonstration and shall obtain the Department's prior concurrence of the operating factors, time period, and other pertinent details in relation to the demonstration.
  - 1.7.3. The provisions of **7 DE Admin. Code 1102, Sections 2.1 and 11.3** shall not apply to the operation of equipment or processes for the purpose of initially demonstrating satisfactory performance to the Department following construction, installation, modification, or alteration of the equipment or processes.
  - 1.7.4. The owner or operator shall not conduct loading of ethanol at the Marine Piers nor at the Sales Terminal until successful demonstration of the Vapor Vacuum Control System at the Sales Terminal and the subsequent issuance of the amended Sales Terminal operating permit. This construction permit does not allow the loading of ethanol for the purposes of testing or demonstration.

**2. Emission Limitations**

- 2.1. Air contaminant emission levels shall not exceed those specified in the State of Delaware "**Regulations Governing the Control of Air Pollution**" and the following:
- 2.1.1. The total annual VOC emissions from the loading rack and the vapor recovery unit (VRU) inclusive of the fugitive emissions shall not exceed 41.2 tons on a 12 month rolling basis.
- 2.1.2. The annual fugitive emissions from the loading of gasoline and ethanol from the rack shall not exceed 4.4 tons on a 12 month rolling basis.
- 2.1.3. VOC emissions from the VRU shall not exceed 1.1% measured as Propane (dry) on a 60 minute rolling average basis.
- 2.1.4. VOC emissions from the vapor collection and processing systems due to the loading of gasoline cargo tanks shall not exceed 10 mg/L of gasoline loaded.
- 2.2. Odors from this source shall not be detectable beyond the plant property line in sufficient quantities such as to cause a condition of air pollution.

**3. Operational Limitations**

- 3.1. The owner or operator shall comply with the following operational limits:
- 3.1.1. Maximum throughput of gasoline shall not exceed 693,720,000 gallons in a rolling 12 month basis.
- 3.1.2. The number of propane trucks loaded shall not exceed 15,000 in any 12 consecutive months.
- 3.1.3. The combined ethanol throughput at the Marine Piers and the Terminal Truck Rack shall not exceed an average 10,000 barrels/day in any 12 consecutive months. [Reference: **Permit: APC-1995/0471-CONSTRUCTION/OPERATION (A4)(LAER)(MACT)(NSPS)**]
- 3.1.4. The Sales Terminal shall not be operated unless the HEADAB or vapor combustion unit is operating properly.
- 3.1.5. The vapor vacuum control system shall be available and operating properly at 100% capture efficiency at all times when the gasoline and ethanol loading takes place excluding maintenance periods. The system capture efficiency shall at no times be less than 98.7%.
- 3.1.6. Each lane equipped to load gasoline or ethanol shall be equipped with a pressure gauge showing the operating pressure of the vapor vacuum control system at each loading lane. The pressure shall remain at or below the set point established by the testing in Condition 4.3, when in operation.

- 3.2. At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall, to the extent practicable, maintain and operate the facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating procedures are being used will be based on information available to the Department which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.
- 3.3. All structural and mechanical components of the equipment or process covered by this Permit shall be maintained in proper operating condition.

**4. Testing and Monitoring Requirements**

- 4.1. The Department reserves the right to require that the owner or operator perform emission tests using methods approved in advance by the Department.
- 4.2. VOC emissions from the VRU shall be continuously monitored by a continuous monitoring system (CMS). The facility shall operate and maintain, according to the manufacturer's specifications, the CMS as specified in 40 CFR 63.427(a)(1) and (4). Quality Assurance requirements for the VOC CMS shall be in accordance with the procedures described in 40 CFR 60 Appendix F.
- 4.3. No later than 180 days after initial startup of the vapor vacuum control system and every five (5) years thereafter, the owner or operator shall conduct a compliance demonstration in accordance with a protocol approved by the Department to demonstrate 100% capture efficiency of the vapor vacuum control system, establish the operating value for the vapor vacuum control system and furnish the Department with a written report of the results of such performance tests.

4.4.

**5. Record Keeping Requirements**

- 5.1. The owner or operator shall maintain all records necessary for determining compliance with this permit in a readily accessible location for 5 years and shall make these records available to the Department upon written or verbal request.
- 5.2. The following information shall be recorded and maintained:
  - 5.2.1. All periods of operation during which the 60 minute rolling average VOC concentration in the exhaust gases are greater than 1.1% propane (dry).
  - 5.2.2. A log of all operating times of the VRU.
  - 5.2.3. A log of all operating times of the vapor vacuum control system.
  - 5.2.4. A log of maintenance activities related to the vapor vacuum control system.
  - 5.2.5. A log of the rolling 12 month total of propane trucks loaded.

- 5.2.6. A log of the rolling 12 month total of ethanol throughput.
- 5.2.7. A log of the pressure of the vapor vacuum control system at each of the loading lanes during loading of gasoline and ethanol.
- 5.3. The rolling 12 month total VOC emissions and fugitive VOC emissions shall be calculated and recorded each month.

**6. Reporting Requirements**

- 6.1. Emissions in excess of any permit condition or emissions which create a condition of air pollution shall be reported to the Department immediately upon discovery and after activating the appropriate site emergency plan, in the following manner:
  - 6.1.1. By calling the Department's Environmental Emergency Notification and Complaint number (800) 662-8802, if the emission poses an imminent and substantial danger to public health, safety or to the environment.
  - 6.1.2. Other emissions in excess of any permit condition or emissions which create a condition of air pollution may be called in to the Environmental Emergency and Complaint number (800) 662-8802 or faxed to (302) 739-2466. The ability to fax in notifications may be revoked upon written notice to the Company by the Department in its sole discretion
- 6.2. In addition to complying with Condition 6.1 of this permit, any reporting required by 7 Del C §6028 "**Reporting of a Discharge of a Pollutant or an Air Contaminant**", and any other reporting requirements mandated by the State of Delaware, the owner or operator shall, for each occurrence of excess emissions, within 30 calendar days of becoming aware of such occurrence, supply the Department in writing with the following information:
  - 6.2.1. The name and location of the facility;
  - 6.2.2. The subject source(s) that caused the excess emissions;
  - 6.2.3. The time and date of the first observation of the excess emissions;
  - 6.2.4. The cause and expected duration of the excess emissions.
  - 6.2.5. For sources subject to numerical emission limitations, 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; and
  - 6.2.6. The proposed corrective actions and schedule to correct the conditions causing the excess emissions.
- 6.3. One (1) original and one (1) copy of all required reports shall be sent to the address below:

Division of Air Quality  
State Street Commons  
100 W. Water Street, Suite 6A

Dover, DE 19904

**7. Administrative Conditions**

- 7.1. This permit shall be made available on the premises.
- 7.2. Failure to comply with the provisions of this permit may be grounds for suspension or revocation.

Sincerely,

Angela D. Marconi, P.E., BCEE  
Acting Program Manager  
Engineering & Compliance Branch

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**Permit: APC-1995/0471-CONSTRUCTION/OPERATION (A5)(LAER)(MACT)(NSPS) – MVRs**  
**Permit: APC-1980/0868-CONSTRUCTION/OPERATION (A5)(MACT)(VOC RACT) – Tank 206**  
**Permit: APC-1980/0869-CONSTRUCTION/OPERATION (A7)(MACT)(VOC RACT) – Tank 225**

### **Delaware City Refinery – Ethanol Marketing Project**

Delaware City Refining Company  
4550 Wrangle Hill Road  
Delaware City, DE 19706

ATTENTION: Jose Dominguez  
Refinery Manager

Dear Mr. Dominguez:

Pursuant to 7 **DE Admin. Code** 1102, Section 2 and 11 and 7 **DE Admin. Code** 1130 section 7.10, approval of the Department of Natural Resources and Environmental Control is hereby granted for the construction and operation of the Ethanol Marketing Project to allow a combined total loading of up to 10,000 BPD, on an annual average basis, of ethanol onto marine vessels at the Marine Piers and the Terminal Truck Loading Rack by:

- Increasing ethanol throughput up to 12,300 BPD at Tank 206-TF-112,
- Modifying Tank 225-TF-133 to allow for storage and up to 10,000 BPD throughput of ethanol,
- Adding capability to deliver ethanol to the piers for marine vessel loading and the Terminal Rack for truck loading from Tanks 206-TF-112 and Tank 225-TF-133,
- Installation of lines to the Marnie Vapor Recovery System at the piers to ensure proper control of ethanol vapors being loaded to these units,

all located at the Delaware City Refinery in accordance with the application submitted on Form NOs AQM-1, AQM-2, AQM-3.1, AQM-4.1, AQM-4.2, and AQM-5 dated August 15, 2016 and signed by Jose Dominguez.

This permit is issued subject to the following conditions<sup>1</sup>:

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<sup>1</sup> These permits supplement **Permit: APC-1980/0868-O (A3) – Product Tank Farm** dated June 22, 2012, **Permit: APC-1980/0869-O (A3) – Intermediate Tank Farm** dated June 22, 2012, and **Permit: APC-1995/0471-O(A3) – MVR System** dated May 3, 2002, and follow the same numbering sequence.

**Delaware City Refining Company**

**Ethanol Marketing Project**

**Permit: APC-1995/0471-CONSTRUCTION/OPERATION (A5)(LAER)(MACT)(NSPS) – MVRs**

**Permit: APC-1980/0868-CONSTRUCTION/OPERATION (A5)(MACT)(VOC RACT) – Tank 206**

**Permit: APC-1980/0869-CONSTRUCTION/OPERATION (A7)(MACT)(VOC RACT) – Tank 225**

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**1. General Provisions**

- 1.1. The Ethanol Marketing Project shall be constructed in accordance with the application and this permit. If any changes are necessary, revised plans must be submitted and supplemental approval issued prior to actual construction. Construction authorization expires 3 years after issuance of this permit.
- 1.2. The owner or operator shall submit a complete supplement to the Title V permit application pursuant to 7 **DE Admin. Code** 1130, Section 5(b) within 12 months of the date which the Ethanol Marketing Project commences operation. The application shall address all applicable requirements including those of 40 CFR Part 64 (Compliance Assurance Monitoring) if applicable.
- 1.3. The owner or operator shall not conduct loading of ethanol at the Marine Piers nor at the Sales Terminal until successful demonstration of the Vapor Vacuum Control System at the Sales Terminal and the subsequent issuance of the amended Sales Terminal operating permit.

**2. Emission Limitations**

- 2.1. Air contaminant emission levels shall not exceed those specified in the State of Delaware "**Regulations Governing the Control of Air Pollution**" and the following:
  - 2.1.1. The annual VOC emissions from Tank 206-TF-112 shall not exceed 0.82 tons on a 12 month rolling basis.
  - 2.1.2. The annual VOC emissions from Tank 225-TF-133 shall not exceed 0.50 tons on a 12 month rolling basis.
  - 2.1.3. Emissions from the MVR system shall meet those already specified in the existing permits for operations described above.

**3. Operational Limitations**

- 3.1. The Company shall comply with the following requirements:
  - 3.1.1. Tank 206-TF-112 shall be subject to the requirements of Conditions fd.1.ii, v, vii, the Monitoring/Testing Requirements of Condition fe.1.iv and the requirements of Condition fj.1 of **Permit: AQM-003/00016 – Part 1 (Renewal 2)** dated May 28, 2015.
  - 3.1.2. Tank 225 -TF-133 shall be subject to the Operational Limitations of Condition fd.1.ii, the Monitoring/Testing Condition fd.v, and the Reporting Requirements of Condition fd.1.vii of **Permit: AQM-003/00016 – Part 1 (Renewal 2)** dated May 28, 2015.

**Delaware City Refining Company**

**Ethanol Marketing Project**

**Permit: APC-1995/0471-CONSTRUCTION/OPERATION (A5)(LAER)(MACT)(NSPS) – MVR5**

**Permit: APC-1980/0868-CONSTRUCTION/OPERATION (A5)(MACT)(VOC RACT) – Tank 206**

**Permit: APC-1980/0869-CONSTRUCTION/OPERATION (A7)(MACT)(VOC RACT) – Tank 225**

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- 3.2 Barge loading of gasoline products (ethanol) shall not exceed the following rates:
  - 3.2.1 35,000 barrels hour when loading simultaneously at two piers; and
  - 3.2.2 25,000 barrels per hour at one pier.
  - 3.2.3 The rolling twelve month throughput of gasoline products (ethanol) shall not exceed 25,463,000 barrels.
  
- 3.4 The combined ethanol throughput at the Marine Piers and the Terminal Truck Rack shall not exceed an average of 10,000 BPD in any 12 consecutive months. [Reference: **Permit: APC-1988/0125-CONSTRUCTION (A6)(MACT)**]

**4. Compliance Methodology**

- 4.1 Compliance with Condition 3.1.1 shall be based on compliance with Conditions fd.1.iv and fj.1.vi of **Permit: AQM-003/00016 – Part 1 (Renewal 2)** dated May 28, 2015.
- 4.2 Compliance with Condition 3.1.2 shall be based on compliance with Conditions fd.1.iv.B and of **Permit: AQM-003/00016 – Part 1 (Renewal 2)** dated May 28, 2015.

**5. Recordkeeping Requirements**

- 5.1 The owner or operator shall maintain all records necessary for determining compliance with this permit in a readily accessible location for 5 years and shall make these records available to the Department upon written or verbal request.
- 5.2 The following information shall be recorded:
  - 5.2.1 Rolling 12 month throughput at Tank 206-TF-112.
  - 5.2.2 Rolling 12 month throughput at Tank 225-TF-133.
  - 5.2.3 Storage tank records required by Condition fd.1.vi, and Condition fj.1.iv in **Permit: AQM-003/00016 – Part 1 (Renewal 2)** dated May 28, 2016.
  - 5.2.4. Odor control records required by Condition fg.1.iv of **Permit: AQM-003/00016 – Part 1(Renewal 2)** dated May 28, 2015.

**6. Reporting Requirements**

- 6.1 Emissions in excess of any permit condition or emissions which create a condition of air pollution shall be reported to the Department immediately upon discovery and after activating the appropriate site emergency plan, in the following manner:
  - 6.1.1 By calling the Department's Environmental Emergency Notification and Complaint number (800) 662-8802, if the emission poses an imminent and substantial danger to public health, safety or to the environment.
  - 6.1.2 Other emissions in excess of any permit condition or emissions which create a condition of air pollution may be called in to the Environmental Emergency and Complaint number (800) 662-8802 or faxed to (302) 739-2466. The ability to fax in

**Delaware City Refining Company  
Ethanol Marketing Project**

**Permit: APC-1995/0471-CONSTRUCTION/OPERATION (A5)(LAER)(MACT)(NSPS) – MVRs**

**Permit: APC-1980/0868-CONSTRUCTION/OPERATION (A5)(MACT)(VOC RACT) – Tank 206**

**Permit: APC-1980/0869-CONSTRUCTION/OPERATION (A7)(MACT)(VOC RACT) – Tank 225**

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notifications may be revoked upon written notice to the Company by the Department in its sole discretion.

- 6.2 In addition to complying with Condition 6.1 of this permit, the Owner/Operator shall satisfy any reporting required by the "Reporting of a Discharge of a Pollutant or an Air Contaminant" regulation, within 30 days of becoming aware of an occurrence subject to reporting pursuant to these conditions. All reports submitted to the Department shall be submitted in writing and shall include the following information:
- 6.2.1 The name and location of the facility;
  - 6.2.2 The subject source(s) that caused the excess emissions;
  - 6.2.3 The time and date of the first observation of the excess emissions;
  - 6.2.4 The cause and expected duration of the excess emissions;
  - 6.2.5 For sources subject to numerical emission limitations, 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;
  - 6.2.6 The proposed corrective actions and schedule to correct the conditions causing the excess emissions.
  - 6.2.7 Emissions on the same day from the same emission unit may be combined into one report. Emissions from the same cause that occur contemporaneously may also be combined into one report.
  - 6.2.8 The Company shall submit an electronic copy of all required reports to the Department's compliance engineer assigned to the Refinery.
- 6.3 One original and one copy of all required reports shall be sent to the address below:  
Division of Air Quality  
State Street Commons  
100 W. Water Street, Suite 6A  
Dover, DE 19904

**7. Administrative Conditions**

- 7.1 This permit shall be made available on the premises.
- 7.2 Failure to comply with the provisions of this permit may be grounds for suspension or revocation.

Sincerely,

Angela D. Marconi, P.E., BCEE  
Acting Program Manager  
Engineering & Compliance Branch

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