

SECRETARY'S ORDER NO. 2006-A-0057

DATE OF ISSUANCE: November 27, 2006

BACKGROUND

On November 30, 2004, the Department issued Secretary's Order No. 2004-A-0058 and Permit No. APC-2004/0721-CONSTRUCTION (NSPS) to The Premcor Refining Group Inc. ("Premcor"). The permit and Secretary's Order authorized the construction of two package boilers as part of the Pollution Control Upgrade Project ("PCUP") at Premcor's oil refinery in Delaware City, Delaware ("Refinery"). Premcor is obligated pursuant to a Consent Decree filed in U.S. District Court for the Southern District of Texas in C.A. No. H-01-0978 to install two wet gas scrubbers in order to address air pollution emissions, which was the focus of the PCUP at Premcor's Refinery.

On December 20, 2004 Premcor appealed the issuance of the air quality construction permit concerning the Package Boilers to the Environmental Appeals Board. The appeal involved numerous provisions in the permit. The parties met thereafter and resolved the pending appeal issues by making proposed changes to the Package Boilers

Construction Permit. In the interim, the Environmental Appeals Board stayed the pending appeal upon request of Premcor and the Department. The Secretary desired to take public comment on the proposed modifications to the package boilers permit that integrated the terms of the settlement of the package boilers permit litigation. Notice of the intent to amend the Package Boilers Construction Permit was published in both the Delaware State News and the News Journal. The date for submission of public comments expired, and the Department has received comments from two environmentally concerned sources. As agreed, Premcor was provided copies of those comments and has submitted comments presenting its view on the issues raised.

FINDINGS

Based on the above, the Secretary makes the following findings:

1. Written comments were received from Mr. Alan Muller, representing Green Delaware and Ms. Lori Fencer. These comments opposed the proposed permit modifications. Green Delaware commented that requirements for a Selective Catalytic Reduction (“SCR”) to control NO_x emissions, sulfuric acid and ammonia mass emissions limits and to continuously monitor carbon dioxide emissions seem to have been eliminated. Both Green Delaware and Ms. Fencer commented that the revised permit changes the NO_x emissions limit from 6.6 tons per year from each boiler to 24.9 tons per year from both boilers. Finally, Green Delaware commented that it believed the changes are inconsistent with other regulatory efforts to reduce NO_x emissions and with the revised National Ambient Air Quality Standard for PM_{2.5}.
2. Premcor submitted written comments responding to the comments made by Mr. Muller and Ms. Fencer by letter dated November 13, 2006.

3. The Department has reviewed and considered the comments submitted by Mr. Muller, Ms. Fencer and Premcor. Although, I have taken these comments into consideration, for the following reasons, the Department will issue the proposed permit modifications as set out in the negotiated settlement (Exhibit “A”):

A. The commentors correctly point out that there are changes to the NO_x emissions limits. However, Premcor’s original application had indicated each boiler (individually) would emit 24.9 tons NO_x per year, which would have subjected the source to regulatory review under NSR. Therefore, the issued permit established an emission limit of 5 ppmvd at 3 % O₂ and 6.6 tons per year, recognizing that such limits were based on installing Selective Catalytic Reduction (“SCR”) Systems, which would have been the emissions standards a source would have to meet if, in fact, NSR had been triggered. Nonetheless, in the negotiated settlement, Premcor agreed to accept a permit emissions limit so that annual combined NO_x emissions from both package boilers (combined) will not exceed 24.9 tons (without the use of SCR). By incorporating that emissions limitation into the permit, the Department is satisfied this project does not trigger review under NSR (and thus should not be required to meet the technological constraints that would have otherwise applied). Additionally, the revised permit provides a mechanism to address any unexpected circumstance where Premcor is unable to comply with the permitted standard. However, if the Premcor elects to install and operate an SCR, Premcor will do so in accordance with Condition 3.3 of the permit. Condition 3.3 provides a satisfactory vehicle for the Department to incorporate appropriated revised emissions limits should SCR be installed at a

later date. Given these facts, the Department believes adjustment of these conditions is a reasonable resolution.

B. The commentors are also correct in pointing out that sulfuric acid and ammonia emissions limits no longer appear in the permit. These emission limits were directly related to emissions anticipated to be applicable due to the operation of the SCR control technology. Because Premcor has agreed to limit the annual combined NO_x emissions from both package boilers to 24.9 tons per year without the use of SCR, there will be no ammonia slip (emissions) from these boilers. Furthermore, operation of these boilers without an SCR will effectively reduce sulfuric acid emissions to de minimis levels. Given these facts, the Department believes adjustment of these conditions is a reasonable resolution.

C. The commentors likewise pointed out that the requirement to continuously monitor carbon monoxide emissions was removed from the package boiler permit. It is important to note that in the original permit, the Department had prescribed continuously monitoring CO₂ emissions as a means to calculate NO_x emissions. Nonetheless, Premcor has commented that there are other means to obtain NO_x emissions such as using NO_x concentration and flow monitors or by using NO_x and O₂ concentration monitors. AQM concurs, and as such, adjustment of the permit to remove this condition is a reasonable resolution.

D. Finally, a commentor was concerned that the modification of this permit was potentially inconsistent with other regulatory efforts to reduce NO_x emissions and with the revised National Ambient Air Quality Standard for PM_{2.5}. While the Department appreciates the public's interest in both consistency of

regulatory efforts and the desire to obtain progress towards improved air quality, under the circumstances described above, the Department does not believe modification of this permit is inconsistent with its other efforts. The package boilers as proposed (at 0.02 lb/mmBtu) will be in compliance with the proposed emissions limit contained within the draft new regulation (0.04 lb/mmBtu). Furthermore, these package boilers are part of a larger pollution control project that will result in reductions of up to 37,000 tons of SO₂ emissions from past permitted levels. Indeed, SO₂ emissions are also a pre-cursor to the formation of PM_{2.5} in the atmosphere. Thus, the Department believes it is not inconsistent to issue the modified permit as proposed in the settlement to allow Premcor to construct equipment that is part of a project designed to substantially reduce pollutant emissions in Delaware.

4. It is in the best interest of Premcor, the State of Delaware, and the citizens of the State of Delaware to issue the amended Package Boilers Construction Permit as specified in the EAB Stipulation and to resolve this appeal without further litigation.

ORDER

It is hereby ordered that the Package Boilers Construction Permit be amended to reflect the agreed upon changes as included in Exhibit A of the EAB Stipulation and as attached hereto.

/s/ John A. Hughes, Secretary