

**From:** Gao Frank F. (DNREC)  
**Sent:** Thursday, October 26, 2006 7:43 AM  
**To:** 'Alan Muller'; kstewart@lunginfo.org; mdfiorentino@widener.edu; eft@envirotruth.com; Patrick.Covert@valero.com; Heather.Chelpaty@valero.com; pjacoby@powrtechsolutions.com; taras.lewus@erm.com; Llewellyn Gerald (DHSS); Perkins Richard E. (DHSS); Rose.Quinto@epamail.epa.gov; nicholasdi@comcast.net; Amirikian Ronald A. (DNREC); Rangan Ravi (DNREC); Lutrzykowski Mark J. (DNREC); Harris Bill (DNREC); Steltzer Bruce (DNREC)  
**Cc:** Mirzakhali Ali (DNREC)  
**Subject:** RE: FW: Reg. 1142 Sec. 2: Premcor's new mass approach and ALA DE responses

Hi, Alan, and other committee members,

Thanks for the comments. Although I do not agree with all your comments, I appreciate your efforts being put into the process.

At this point, we (AQM staff) are carefully reviewing refinery's comments/proposal and comments from all parties, as well as doing our own research and analysis. We will inform the committee our next move in a timely manner.

By the way, I will be on vacation/family leave from 10/30 to 11/08. During this period, please forward all comments/information/requests to Ron and Ravi for immediate responses. Otherwise, I will respond after I come back.

Thanks,

Frank

Air Quality Management-DNREC  
New Castle, DE 19720  
Phone: (302)323-4542 FAX: (302)323-4598

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**From:** Alan Muller [mailto:amuller@dca.net]  
**Sent:** Wednesday, October 25, 2006 8:53 AM  
**To:** Gao Frank F. (DNREC); kstewart@lunginfo.org; mdfiorentino@widener.edu; eft@envirotruth.com; Patrick.Covert@valero.com; Heather.Chelpaty@valero.com; pjacoby@powrtechsolutions.com; taras.lewus@erm.com; Llewellyn Gerald (DHSS); Perkins Richard E. (DHSS); Rose.Quinto@epamail.epa.gov; nicholasdi@comcast.net; Amirikian Ronald A. (DNREC); Rangan Ravi (DNREC); Lutrzykowski Mark J. (DNREC); Harris Bill (DNREC); Steltzer Bruce (DNREC)  
**Cc:** Mirzakhali Ali (DNREC); Werner James D. (DNREC)  
**Subject:** Re: FW: Reg. 1142 Sec. 2: Premcor's new mass approach and ALA DE responses

At 08:31 AM 10/25/2006 -0400, Gao Frank F. (DNREC) wrote:

Kevin,  
Thanks for the comments and remarks.

Other committee members,  
Please see the attached comments/remarks from Kevin.

Thank you all for your continuous support to our work.

Frank

Air Quality Management-DNREC  
New Castle, DE 19720  
Phone: (302)323-4542 FAX: (302)323-4598

Dear Frank:

This is an interesting string of emails in various ways.

First, Green Delaware appreciates the analysis/discussion provided by the Lung Association (Noting that we received this from you and not directly from Lung.). While we do not necessarily agree with all of Lung's points, we agree with the general thrust and certainly with this:

*"a) This proposed emission rate is far too high. Therefore, in response to this weak proposal, the American Lung Association of Delaware strongly recommends that AQM reject it."*

Green Delaware generally favors flexibility in seeking environmental progress, but such flexibility requires good faith on both sides.

It appears to us that our friends at the refinery have embarked on a policy of massive resistance. Note this:

*"We will need to schedule a meeting with David Small and James Werner to discuss. We are a good corporate citizen and will deliver emissions reductions as needed on a refinery wide basis. **We will also not argue BACT controls on an individual unit as we expand the refinery**, we have plans to touch many of the units in the plant anyway, but there is no reason for this regulation to drive us to prematurely and inequitably control every unit in the plant in one order."*

*Thanks*

*Andrew Kenner*

It appears to Green Delaware that no information has been presented by the refinery to counter our position: that all the subject units should be controlled promptly to emission rates of no more than .03 lbs NOx/million BUT. Rather, the response seems to be more along the lines of a threat of massive resistance that would wear down the resources of the Department. In the face of this, we, or course, would suggest that the obligation of DNREC is to stand firm.

Of immediate significance is the apparent attempt to remove the discussions from the purview of this committee. (*"We will need to schedule a meeting with David Small and James Werner to discuss. ..."*) This seems to have begun a correspondence between DNREC officials and our friends at the refinery on which the members of the committee were not included.

Green Delaware is always hesitant to participate in review committees and suchlike because we are aware of these proclivities towards backdoor dealmaking with the

polluters. On the other hand, an open process that makes the facts widely available usually leads to better progress.

At this point, we would appreciate some guidance as to how the Department intends to proceed.

Yours very truly,

Alan Muller

-----Original Message-----

From: Kevin Stewart [<mailto:kstewart@lunginfo.org>]

Sent: Tuesday, October 24, 2006 4:32 PM

To: Gao Frank F. (DNREC)

Cc: Deb Brown

Subject: RE: Reg. 1142 Sec. 2: Premcor's new mass approach and ALA DE responses

Hello Frank,

Attached are our comments at this stage of the deliberations. I have combined our responses to Draft 3 of the proposed regulation, Premcor's presentation of October 5, and Premcor's proposals of October 20.

Sincerely,

Kevin M. Stewart, [kstewart@lunginfo.org](mailto:kstewart@lunginfo.org)

Director of Environmental Health

American Lung Association of the Mid-Atlantic

Serving the communities of Delaware, Pennsylvania and West Virginia

101 Good Drive, Suite 1

Lancaster, PA 17603

Phone: 717.397.5203 Fax: 717.397.5244 HelpLine: 1-800-LUNG-USA ext.2

Website: [www.lunginfo.org](http://www.lunginfo.org) <<http://www.lunginfo.org/>>

Improving Life, One Breath at a Time

EDUCATE. ADVOCATE. DONATE. ELIMINATE.

Through educational programs, advocating for better public health policies, donations from supporters, and funding research, we continually better the lives of those living with lung diseases and will one day reach our ultimate goal: a world without lung disease.

Help us eliminate lung disease today so we can all breathe easier tomorrow!

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From: Gao Frank F. (DNREC) [<mailto:Frank.Gao@state.de.us>]

Sent: Fri 10/20/2006 10:34 AM

To: [amuller@dca.net](mailto:amuller@dca.net); Kevin Stewart; [mdfiorentino@widener.edu](mailto:mdfiorentino@widener.edu); [eft@envirotruth.com](mailto:eft@envirotruth.com); [Patrick.Covert@valero.com](mailto:Patrick.Covert@valero.com);

Heather.Chelpaty@valero.com; pjacoby@powrtechsolutions.com;  
taras.lewus@erm.com; Llewellyn Gerald (DHSS); Perkins Richard E. (DHSS);  
Rose.Quinto@epamail.epa.gov; nicholasdi@comcast.net; Amirikian Ronald A.  
(DNREC); Rangan Ravi (DNREC); Lutrzykowski Mark J. (DNREC); Harris Bill  
(DNREC); Steltzer Bruce (DNREC)  
Cc: dbrown@alade.org; Morris.Makeba@epamail.epa.gov;  
Delaware.chapter@sierraclub.org; dasmail@delawareaudubon.org;  
John.Deemer@valero.com; fjmacartor@comcast.com; TKantorczyk@MGKFLaw.com;  
Patrick.Covert@valero.com; Mirzakhilili Ali (DNREC)  
Subject: Reg. 1142 Sec. 2: Premcor's new mass approach

Dear committee members,

I am attaching hereto an email-chain occurred yesterday. The first e-mail (at the bottom of the email chain) was a message from Premcor, which described a mass approach for the proposed rule. Since this mass approach is apparently different from the proposed rule that have been discussed by the committee in the past 8+ months, we would like to have the whole committee review it and provide comments. We are planning to respond to this mass approach as soon as possible. Therefore, please send in your comments early next week, preferably by next Wednesday (Oct. 25th).

Thank you,

Frank  
Air Quality Management-DNREC  
New Castle, DE 19720  
Phone: (302)323-4542 FAX: (302)323-4598

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From: Mirzakhilili Ali (DNREC)  
Sent: Thursday, October 19, 2006 9:11 PM  
To: Kenner, Andrew; Covert, Patrick; Werner James D. (DNREC)  
Cc: Chelpaty, Heather A; Arnosky, David; Bourbon, Elizabeth; Small David (DNREC); Cherry Philip J. (DNREC); Amirikian Ronald A. (DNREC); Gao Frank F. (DNREC); Rangan Ravi (DNREC); Steltzer Bruce (DNREC); Lutrzykowski Mark J. (DNREC); Harris Bill (DNREC)  
Subject: RE:

Andrew - Thank you for the heads up.

Dave and Jim - Please let me know when the meeting is scheduled and I will make sure to get you briefing material.

Frank - Please forward Premcor's proposal to the entire committee and solicit comments and if necessary schedule a meeting to discuss. I would like to have the benefit of the everyone's comments in formulating our response. This needs to happen ASAP.

Ali

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From: Kenner, Andrew [<mailto:Andrew.Kenner@valero.com>]  
Sent: Thu 10/19/2006 3:59 PM  
To: Mirzakhali Ali (DNREC); Covert, Patrick; Werner James D. (DNREC)  
Cc: Chelpaty, Heather A; Arnosky, David; Bourbon, Elizabeth; Small David (DNREC); Cherry Philip J. (DNREC); Amirikian Ronald A. (DNREC); Gao Frank F. (DNREC); Rangan Ravi (DNREC); Steltzer Bruce (DNREC); Lutrzykowski Mark J. (DNREC); Harris Bill (DNREC)  
Subject: RE:

Ali,

We will need to schedule a meeting with David Small and James Werner to discuss. We are a good corporate citizen and will deliver emissions reductions as needed on a refinery wide basis. We will also not argue BACT controls on an individual unit as we expand the refinery, we have plans to touch many of the units in the plant anyway, but there is no reason for this regulation to drive us to prematurely and inequitably control every unit in the plant in one order. We are the only regulated stakeholder and we have agreed to work on an engineered solution, that has been our promise and commitment since day one.

Thanks

Andrew Kenner

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From: Mirzakhali Ali (DNREC) [<mailto:Ali.Mirzakhali@state.de.us>]  
Sent: Thursday, October 19, 2006 3:10 PM  
To: Covert, Patrick; Werner James D. (DNREC)  
Cc: Kenner, Andrew; Chelpaty, Heather A; Arnosky, David; Bourbon, Elizabeth; Small David (DNREC); Cherry Philip J. (DNREC); Amirikian Ronald A. (DNREC); Gao Frank F. (DNREC); Rangan Ravi (DNREC); Steltzer Bruce (DNREC); Lutrzykowski Mark J. (DNREC); Harris Bill (DNREC)  
Subject: RE:

Pat,

Based on my understanding of your position, what is meant by operational flexibility is Premcor's desire to leave certain units uncontrolled. I know that we have presented you with our estimate of reductions achievable through the implementation of this regulation from the refinery units towards our attainment needs. The reductions tabulated so far do not bring us into attainment and we need to obtain more. One objective of the regulatory development process is to maximize the environmental benefits of the rule while considering all the relevant issues brought forth by the committee. In this instance, I am not certain whether the tons per day reduction that you have proposed reflects that notion. We had discussed you providing a proposal which delivers more reductions than those estimated by the rigorous

implementation of the regulation in a possible exchange for "operational flexibility".

As a point of clarification, you will not be seeing a report on 10/27. As I had indicated in my first e-mail we hope to have a report for internal discussion only by then. Naturally, it would take a little longer for us to have a product that we can share with you. I appreciate your patience and you will be hearing from us.

Ali

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From: Covert, Patrick [mailto:[Patrick.Covert@valero.com](mailto:Patrick.Covert@valero.com)]  
Sent: Thursday, October 19, 2006 11:55 AM  
To: Mirzakhali Ali (DNREC); Werner James D. (DNREC)  
Cc: Kenner, Andrew; Chelpaty, Heather A; Arnosky, David; Bourbon, Elizabeth; Small David (DNREC); Cherry Philip J. (DNREC); Amirikian Ronald A. (DNREC); Gao Frank F. (DNREC); Rangan Ravi (DNREC); Steltzer Bruce (DNREC); Lutrzykowski Mark J. (DNREC); Harris Bill (DNREC)  
Subject: Re:

Ali,

Thanks for the quick response. I understand your concerns on timing and the need for the larger group to evaluate this, but the reality is that we are the only regulated stakeholder being required to invest a significant amount of resources to comply with this regulation. We believe that the mass limit approach meets the State's needs and gets the tpd reductions we've been told are required from the refinery.

The proposal we've put forward gets the overall reductions in the same time frame that's being requested of the EGUs. The reductions we're committing to in 2009 do not include the FCC reductions, which are reflected in the 2012 number. While we expect we will get the FCC reductions in 2009, I didn't show them until the second phase based on the language that's already in place through the FCC NOx AO.

As the only stakeholder being required to comply with the regulation, we think this approach is equitable and allows the rule to move forward with both heaters, boilers and COBs included. As the language is now, we will not be able to support the regulation because we do not believe it is equitable and economically feasible, and takes away our operational flexibility.

I look forward to seeing the report by 10/27 and continuing our discussions. Thanks.

Pat

-----Original Message-----

From: Mirzakhali Ali (DNREC) <Ali.Mirzakhali@state.de.us>

To: Werner James D. (DNREC) <James.Werner@state.de.us>; Covert, Patrick  
CC: Kenner, Andrew; Chelpaty, Heather A; Arnosky, David; Bourbon,  
Elizabeth; Small David (DNREC) <David.Small@state.de.us>; Cherry Philip  
J. (DNREC) <Philip.Cherry@state.de.us>; Amirikian Ronald A. (DNREC)  
<Ronald.Amirikian@state.de.us>; Gao Frank F. (DNREC)  
<Frank.Gao@state.de.us>; Rangan Ravi (DNREC) <Ravi.Rangan@state.de.us>;  
Steltzer Bruce (DNREC) <Bruce.Steltzer@state.de.us>; Lutrzykowski Mark  
J. (DNREC) <Mark.Lutrzykowski@state.de.us>; Harris Bill (DNREC)  
<Bill.Harris@state.de.us>  
Sent: Thu Oct 19 07:53:32 2006  
Subject: RE:

Jim, Pat, et.al,

Developing this proposal at this juncture into an acceptable alternative may not be possible given our time constraints. The proposal must also be discussed amongst the larger stakeholder group which has been working on this regulation for quite some time. The other members of the committee may be less inclined to embrace this concept particularly if our initial interpretation of the proposal is accurate. It seems to us that, the "mass approach" could mean that (1) Premcor will do nothing before May 2009, since the cracker COB will provide the reduction to the proposed limit of 6.9 TPD, and (2) the proposed 3.4 TPD limit after 01/2012 actually delays the rule to that date.

Again, this is based on some cursory review of the proposal and only represents initial reactions. We will make an attempt to have an internal report by 10/27 which may be a huge challenge given a number of other issues percolating in the shop. In the meantime we have to also address the comments on the proposed regulation in case the daily mass concept fails to bloom.

Ali

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From: Werner James D. (DNREC)  
Sent: Thursday, October 19, 2006 8:32 AM  
To: Covert, Patrick; Mirzakhali Ali (DNREC)  
Cc: Kenner, Andrew; Chelpaty, Heather A; Arnosky, David; Bourbon,  
Elizabeth; Small David (DNREC); Cherry Philip J. (DNREC)  
Subject: RE:

Pat,

Thank you for your comments, and your prompt responsiveness.

I am directing, by this note, our technical staff to evaluate the merits - both direct emissions reductions benefits and policy implications - of your suggestions, and report back to me by 27 Oct 2006.

As I said, I am generally very supportive of seeking overall reductions

that meet our state's needs, while providing flexibility to allow those reductions to be met in the most cost-effective way possible. That said, we must also be mindful of other policy needs, including equity and providing incentives for innovation and modernization.

Best regards,

James D. Werner  
Delaware DNREC  
Director, Division of Air and Waste Management  
(302)739-9400  
Respect, Integrity and Customer Focus

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From: Covert, Patrick [<mailto:Patrick.Covert@valero.com>]  
Sent: Wednesday, October 18, 2006 5:12 PM  
To: Werner James D. (DNREC); Mirzakhilili Ali (DNREC)  
Cc: Kenner, Andrew; Chelpaty, Heather A; Arnosky, David; Bourbon, Elizabeth  
Subject:

Jim & Ali,

We will be submitting comments on the current draft 1142 language by the end of the week, but I wanted to follow-up on our discussions from last Friday regarding a mass limit approach. We believe that a mass limit approach gets DNREC the emission reductions needed to apply toward attainment commitments, but provides us operational flexibility by allowing us to decide what sources we can control in the most cost effective manner while supporting the refinery's strategic plan. The reductions we are proposing get the tpd that we have been told the State is looking for from the refinery. In addition, this mass approach includes the FCCU and Coker COBs.

While we do not envision controlling all sources, any future projects that include the heaters or boilers will obviously be subject to DNREC's NSR program and related BACT evaluations to determine what emission limits may apply at that time.

Please note that we anticipate that the FCC 20 NOx controls will be installed by 5/1/09, but due to the language and various scenarios considered in the FCC NOx AO, we are not showing the reductions until the second phase.

Here's our suggestion on a mass approach:

Applicability and Effective Date

An Affected Unit under this regulation shall be defined as any industrial boiler or process heater, inclusive of any carbon monoxide (CO) boiler, with a maximum heat input capacity equal to or greater than

200 million BTUs per hour, which is operated within a petroleum refinery facility on the effective date of this regulation.

#### Standards

The combined NO<sub>x</sub> emissions from all Affected Units shall not exceed the following mass-based emissions caps, calculated on a 7-day rolling average:

\* By May 1, 2009, NO<sub>x</sub> emissions from Affected Units shall not exceed 6.9 tons per day.

\* From and after January 1, 2012, NO<sub>x</sub> emissions from Affected Units shall not exceed 3.4 tons per day.

#### Monitoring Requirements

Compliance with the NO<sub>x</sub> mass emission cap limitations specified in this regulation shall be determined based on CEMS data collected in accordance with the appropriate requirements set forth in 40 CFR, Part 60, Appendix B, Performance Specification 2, and the QA/QC requirements in 40 CFR Part 60, Appendix F. For affected units which share a common exhaust stack, a single CEMS installed in the common stack shall be adequate for demonstrating compliance with this section.

The total reductions would be in excess of 1930 tons per year (5.3 tpd). We believe this is a significant commitment from Valero that will allow the regulation to move forward. Please let me know if you have any questions or would like to arrange to talk about this in more detail. Thanks.

Pat

Alan Muller, Executive Director  
Green Delaware  
Box 69  
Port Penn, DE 19731 USA  
(302)834-3466  
fax (302)836-3005  
greendel@dca.net  
[www.greendel.org](http://www.greendel.org)