TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2007 MAY -9 PM 2:25

CHIEF CLERKS OFFICE

Parker Wilson
Managing Counsel
Environmental/Safety and
Regulatory Affairs Law

May 8, 2007

LaDonna Castañuela
Chief Clerk
Texas Commission on Environmental Quality
MC 105
P.O. Box 13087
Austin, TX 78711-3087

Re: Appeal of Negative Use Determination for Pollution Control Property Use Determination Application No. 06-10279; Valero Port Arthur Refinery Ultra Low Sulfur Diesel Project

Dear Ms. Castañuela:

Pursuant to 30 TAC §17.25, The Premcor Refining Group, Inc., a subsidiary of Valero Energy Corporation ("Valero") is hereby filing an appeal of the negative use determination made by the Executive Director of the Texas Commission on Environmental Quality ("TCEQ") with respect to Valero's use determination application (No. 06-10279) for certain pollution control property installed at the Valero Port Arthur Refinery, 1801 S. Gulfway Dr., Port Arthur, Texas, 77640. A copy of the application and resulting negative use determination is attached to this letter.

On April 18, 2007, the Executive Director denied Valero a positive use determination relating to the refinery's Ultra Low Sulfur Diesel project on two grounds. First, the Executive Director determined that the pollution control property (including SRU desulphurization unit revamp, SWS desulphurization unit revamp, ATU-7842, GFU-241, GFU-243, DHT-246, and utilities and offsites – all installed to comply with a federal mandate to produce low emitting, ultra-low-sulfur diesel fuel) does not "provide an environmental benefit at the site." However, Tax Code § 11.31 contains no prerequisite that the "facility, device, or method for the control of air, water, or land pollution" provide a direct onsite environmental benefit in order to qualify for the pollution control property tax exemption.

Second, the Executive Director found that the pollution control property installed by Valero is used for the purpose of "producing a product which is designed to control air pollution." This is simply not the case. Valero does not manufacture pollution control property, particularly as contemplated by the statute, and therefore it should not be disqualified from receiving a positive use determination with respect to the purchase and installation of the above-referenced pollution control property.

One Valero Way • San Antonio, Texas 78249-1616
Post Office Box 696000 • San Antonio, Texas 78269-6000 • Telephone (210) 345-2000 • Fax (210) 353-8363
parker.wilson@valero.com

Fundamental fairness, as well as a careful reading of the authorizing statute, dictates that the Proposition 2 tax exemption apply equally to all pollution control properties that are required by the government to be used, constructed, acquired, or installed in Texas. This is so regardless of whether the environmental benefit manifests itself onsite, within the borders of the facility, or offsite, outside the borders of the facility. As a result of the negative use determination, Valero is now presumptively ineligible to seek the property tax exemption to which it is entitled. Valero therefore requests that the Commission take under consideration the Executive Director's initial negative use determination.

I appreciate your time and attention to this matter. Please don't hesitate to contact me at your convenience at (210) 345-5894 should you have any questions or need additional information.

Sincerely,

Parker Wilson

Enc.

Cc: TCEQ
Tax Relief for Pollution Control Property MC-110
P.O. Box 13087
Austin, TX 78711-3087

Roy Martin
Trey Novosad
Rich Walsh

VALERO ENERGY CORPORATION

Ad Valorem Tax

Senders Record – Certified Article Number
7160 3901 9849 5897 0367
2007 TCEQ Appl – TX Valero Refineries

January 26, 2007

Texas Commission on Environmental Quality
MC-214, Cashiers Office
P.O. Box 13088
Austin, TX 78711-3088

RE: Application for Use Determination for Pollution Control Property
Premcor Port Arthur Refinery Ultra Low Sulfur Diesel Project

Dear Sirs:

In accordance with the Texas Property Tax Code Section 11.31, The Premcor Refining Group, Inc., a Subsidiary of Valero Energy Corporation, respectfully submits the enclosed pollution control tax exemption application for our Port Arthur Refinery, along with the Tier II application fee of $1,000. This pollution control project was federally mandated by the Environmental Protection Agency, and will successfully eliminate the vast majority of the sulphur content from the product pool produced at our Jefferson County location.

This increasingly efficient process of sulphur reduction will continue to improve air quality by reducing sulphur emissions resulting from the combustion of petroleum products.

Respectfully yours,

Trey Novosad
Director – Ad Valorem Tax

TNN:srk

Enclosure

V:\ADVALTAX\Compliance - Applications\Texas\TCEQ 2007 - Refinerics\2007 TCEQ - Port Arthur Refinery Diesel Cover Ltr.doc

ARTIFICIAL WATERMARK ON BAC DOCUMENT HOLD AT AN ANGLE TO VIEW NOT CASH IF NOT PRESENT

Valero Services, Inc
P.O. Box 696000
San Antonio, TX 78269-6000

JPMorgan Chase Bank, N.A.
Syracuse, NY

51813262

50-937
213

Date 01/30/2007

Amount *********1,000.00* USD

PAY*********1,000 DOLLARS AND 00 CENTS EXACTLY

PAY TO THE ORDER OF
STATE OF TEXAS
TX COMMISSION ON ENVIRON QUALITY
DBA TCEQ
FINANCIAL ADMIN
PO BOX 13088 MC-214
AUSTIN TX 78711-3088

VEC A/P DISBURSEMENTS

Michael S. Cubrovski

VOID AFTER SIX MONTHS
Authorized Signature

⑈51813262⑈ ⑆021309379⑆601855950⑈

"PAYMENT SUBJECT TO VERIFICATION AND RIGHT TO RECOVER IMPROPER CHARGES"

THE ATTACHED CHECK IS IN FULLPAYMENT OF ITEMS STATED. ENDORSEMENT MUST BE IDENTICAL WITH THE PAYEE DESIGNATED.

DETACH AT PERFORATION BEFORE DEPOSITING AND RETAIN FOR YOUR FILES

2009044
VENDOR NUMBER

Valero Services, Inc
P.O. Box 696000 San Antonio TX 78269-6000

Invoice Date	Invoice Number	Voucher Document	Deductions	Gross amount
01/26/2007	07AFE PA03100996	3100115912	0.00	1,000.00
STATE OF TEXAS (TCEQ)/418-AVT-Other Outside Servi				
Sum total			0.00	1,000.00

Payment Document	Check Number	Check Date	Currency	Payment Amount
2002369949	51813262	01/30/2007	USD	*********1,000.00*

RA

PA 1120

DESCRIPTION/PURPOSE:
OF ULTRA LOW SULPHUR DIESEL PROJECT
AT VALERO'S PORT ARTHUR REFINERY

EPA's Clean Air Highway Diesel final rule known as the "2007 Heavy-Duty Highway Rule" requires a 97 percent reduction in the sulphur content of highway diesel fuel, from its previous level of 500 parts per million (ppm), to 15 ppm. By addressing diesel fuel and engines together as a single system, EPA contends that this fuels regulation will provide annual emission reductions equivalent to removing the pollution from more than 90 percent of today's trucks and buses, or about 13 million trucks and buses, when the current heavy-duty vehicle fleet has been completely replaced in 2030. The expected annual, nationwide reductions in emissions oxides of nitrogen and soot, or particulate matter (PM) from cars and trucks is estimated by EPA at 2.6 million tons and 110,000 tons respectively.

EPA required that 80% of on-road diesel contain less than 15 PPM sulphur by 2006. Valero evaluated various means to arrive at that goal and selected a new hydrotreating method as the most practical and cost efficient approach. We deemed other new, innovative technologies as relatively untested and expensive. It was decided that an end-run sulphur content of 7 PPM was a reasonable and workable target.

Accordingly, Valero Energy Corporation, at great expense, revamped and expanded its Port Arthur refinery process in order to conform to these federally mandated requirements.

As illustrated by the attached documentary materials, the above stated purpose necessitated the revamping of our south SRU and SWS desulphurization units at a cost of over $ 23,000,000.

The revamping of the GFU 243 and GFU 241 units, at a cost of $34,000,000, resulted in the need for a new diesel hydrotreater DHT 246 at a cost of $112,000,000. New utilities, off-site requirements, infrastructure, and logistical improvements necessary to support this new pollution equipment raised the cost considerably. New exchangers, pumps, compressors, drums, heaters, cooling, and piping was integral to this make-over.

This project is successfully reducing to under 15 PPM the sulphur content in our production at this refinery.

EQUIPMENT LIST
ULSD PROJECT AT PORT ARTHUR REFINERY

ITEM	COST ($MM)
• SRU Desulphurization Unit Revamp	19.0
• SWS Desulphurization Unit Revamp	1.5
• ATU – 7842	6.6
• GFU – 241	9.0
• GFU – 243	29.0
• DHT – 246	97.2
• Utilities & Off Sites	29.7
	192.0

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
APPLICATION FOR USE DETERMINATION
FOR POLLUTION CONTROL PROPERTY

The Texas Commission on Environmental Quality (TCEQ) has the responsibility to determine whether a property is a pollution control property. A person or political subdivision seeking a use determination for pollution control property must complete the attached application or use a copy or similar reproduction. For assistance in completing this form refer to the TCEQ guidelines document, *Property Tax Exemptions for Pollution Control Property,* as well as 30 TAC §17, rules governing this program. For additional assistance please contact the TCEQ Tax Relief for Pollution Control Property Program at 512/239-6348. The application should be completed and mailed, with the appropriate fee, to: TCEQ MC-214, Cashiers Office, P.O. Box 13088, Austin, Texas, 78711-3088.

1. GENERAL INFORMATION

A. What is the type of ownership of this facility?

[X] Corporation [ ] Sole Proprietor
[ ] Partnership [ ] Utility
[ ] Limited Partnership [ ] Other _____

B. Size of company: Number of Employees

[ ] 1 to 99
[ ] 100 to 499
[X] 500 to 999
[ ] 1,000 to 1,999
[ ] 2,000 or more

C. Business Description: (Provide a brief description of the type of business or activity at the facility)

The refinement of crude petroleum to produce diesel fuels.

2. TYPE OF APPLICATION

A. [ ] Tier I $150 Application Fee
If all property listed in Section 8 of this application is on the predetermined equipment list (PEL) or is necessary for the installation or operation of equipment on the list, then check this box.

B. [X] Tier II $1,000 Application Fee
If any property listed in Section 8 is not on the PEL, and all of this property is used 100% for pollution control, then check this box.

C. [ ] Tier III $2,500 Application Fee
If any property listed in Section 8 is not on the PEL and if a partial use determination is being requested for ANY of the property included in the application, then check this box.

NOTE: Enclose a check or money order to the TCEQ along with the application to cover the required fee.

3. NAME OF APPLICANT

A. Company Name: The Premcor Refining Group, Inc.

B. Mailing Address (Street or P.O. Box): PO Box 690110

C. City, State, ZIP: San Antonio, TX 78269

4. PHYSICAL LOCATION OF PROPERTY REQUESTING A TAX EXEMPTION

A. Name of Facility or Unit: Valero Port Arthur Refinery

B. Type of Mfg. Process or Service: Petroleum Refinery

C. Street Address: 1801 S Gulfway Dr

D. City, State, ZIP: Port Arthur, TX 77640 Jefferson County

E. Tracking Number Assigned by Applicant (Optional): N A

F. Company Number or Registration Number: RN102584026
(Required)

5. APPRAISAL DISTRICT WITH TAXING AUTHORITY OVER PROPERTY

A. Name of Appraisal District: Jefferson County Appraisal District

B. Appraisal District Account Number: New Account

6. CONTACT NAME (must be provided)

A. Company/Organization Name: Valero Energy Corporation

B. Name of Individual to Contact: Trey Novosad

C. Mailing Address: PO Box 690110

D. City, State, ZIP: San Antonio, TX 78269-0110

E. Telephone number and fax number: 210-345-2700 fax:210-345-2495

F. E-Mail address (if available): Trey.Novosad@Valero.com

7. RELEVANT RULE, REGULATION, OR STATUTORY PROVISION

For each of the pollution control properties listed on this application, select the type of medium or media (air, water, waste) for which the property or device is required. Use the second column to cite the specific environmental rule, regulation, and/or law that is being met or exceeded by the installation of this property. The citation should be specific and should include the section and/or subsection of the rule, regulation, and/or law. Do not list permit numbers or registration numbers in this table. If the property or equipment was installed or constructed in response to an agreed order, do not list the order — list the rule, regulation, or law that requires the installation or construction of the property.

MEDIUM	RULE/REGULATION/LAW
Air	40 CFR, PART 80, REGULATION OF FUELS AND FUEL ADDITIVES, SUBPART I, MOTOR VEHICLE, NON-ROAD LOCOMOTIVE AND MARINE DIESEL FUEL.
Water	
Waste	

8. DESCRIPTION OF PROPERTY (Complete for all applications)

Provide a description and purpose of the property for which this application is being filed. This description must include the anticipated environmental benefits for the prevention, monitoring, control, or reduction of air, water, or land pollution that will be realized by the installation of the property. Do not simply repeat the description from the predetermined equipment list. Instead describe the property and how it will be used at your facility. Include sketches of the equipment and flow diagrams of the processes where appropriate.

Land: If a use determination is being requested for land, provide a legal description and an accurate drawing of the property in question. Only that land which is actually used for pollution control purposes or that houses pollution control property is eligible for a positive use determination.

Used Equipment: If the property identified above has been purchased from another owner who previously used the property as pollution control property. Provide information that shows that the property was not taxable on or before January 1, 1994, by any taxing unit in which the property is now located.

9. DECISION FLOWCHART

Each piece of equipment or process change must be processed through the following Decision Flow Chart. Each item of property listed on the application must result in a yes answer to boxes 3 and 5. Use the table in section 11 to document which box (7, 9 or 10) was the final destination of each piece of equipment.

The following instructions should be used with the flow chart. **The numbered items below do not correspond to the box numbers in the flow chart.**

1. Prepare a list of all process equipment and pollution control equipment that is considered to be pollution control property.

2. Each item on the list must be run through the flow chart separately. Some items will likely end at different points on the flow chart.

3. Determine whether the item is required to meet or exceed a state, local, or federal environmental regulation, rule or law. If no specific rule citation can be made, then this item does not qualify as pollution control property (Box 4).

4. Determine if there is an environmental benefit at the site where the equipment item is installed. A yes answer to this question is needed to continue evaluating the equipment. If the answer is no, then the equipment does not qualify (Box 4).

5. If the equipment is listed on the Predetermined Equipment List (PEL), then it qualifies as Tier I (Box 7). Determine the appropriate PEL number for each item.

6. Specify all PEL equipment for the project in a single list that is included with the application.

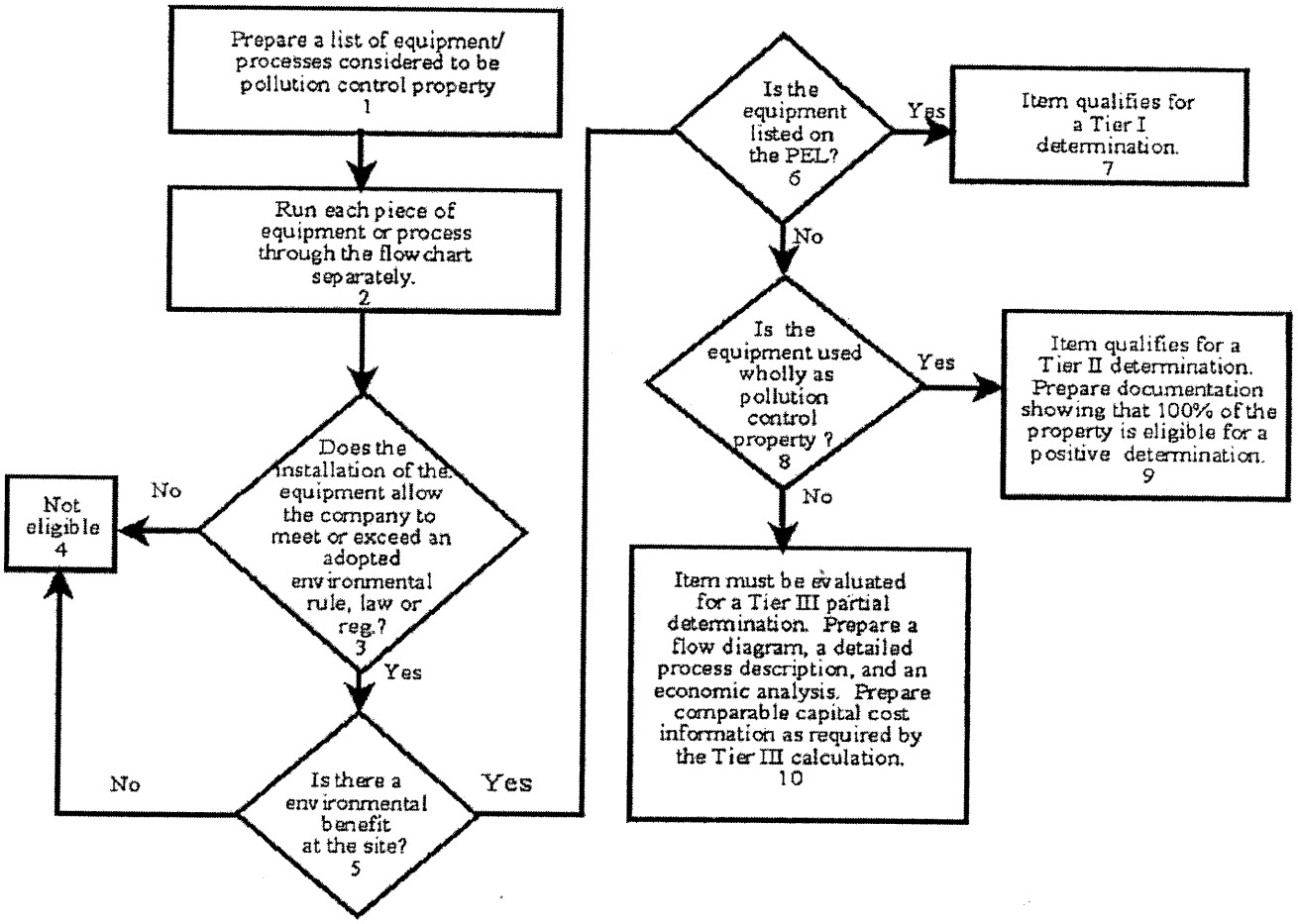
7. If the equipment is not on the PEL, then determine whether the equipment is used wholly for pollution control, i.e., the equipment is not production related and/or does not increase production or improve product quality.

8. If it is wholly for pollution control, then the equipment may qualify as 100% pollution control property under Tier II (Box 9). The applicant must provide sufficient written documentation and justification to prove that it qualifies.

9. If the equipment has both environmental and production elements, then the equipment must be evaluated as a Tier III partial determination (Box 10). The applicant must provide a detailed capital cost analysis following the procedures established in the Partial Determinations section of this document. The results of these calculations will determine the partial use percentage.

Prop 2 Decision Flow Chart

Applicants must use this flowchart for each piece of equipment or process. In order for a piece of equipment or process to be eligible for a positive use determination the item must generate 'yes' answers to the questions asked in boxes 3 and 5.



10. PARTIAL PERCENTAGE CALCULATION

This section is to be completed only for Tier III applications. Process changes or construction of new process equipment that results in pollution control may result in a partial determination. On one or more separate sheets of paper, explain how the partial percentage was determined using the Cost Analysis Procedure that is described in the attached *Instructions for Completing Application Form*. Include financial data that demonstrates how this percentage was calculated. Provide as detailed information as possible, since the information provided will be used by the TCEQ to evaluate the use percentage requested in the application. Attach sketches and/or flow diagrams showing the property and its function. Examples of partial determinations are shown in Appendix C of the technical guidance document.

11. PROPERTY CATEGORIES AND COSTS

Identify the category and the estimated purchase cost of the property listed in Section 8. List each piece of property for which a use determination is being sought. If the application is for property that is listed on the predetermined equipment list, list the appropriate item number(s) in the PEL column. Place an "N" in the second column to certify that the property was not taxable on or before January 1, 1994. Failure to answer this question for each piece of property will result in the issuance of a notice of deficiency letter and the possible rejection of the application. List the which box, (7, 9, or 10), was the final destination of each piece of property. List the estimated or actual

purchase cost of the property. If the property is not wholly used for the purpose of pollution control, list the estimated percentage of pollution control calculated using the Partial Determination Cost Analysis Procedure.

Property Port Arthur Refinery	Property Taxable on or Before 1/10/94	Decision Flow Chart Box 7, 8, or 10	PEL Number	Estimated Purchase Cost	Partial Percentage
Land					
Property DIESEL HYDROTREATER	N	9*	NA	$192,000,000	100%
Totals				$192,000,000	

12. EMISSION REDUCTION INCENTIVE GRANT

Will an application for an Emission Reduction Incentive Grant be filed for this property/project:

[ ] Yes [X] No

13. APPLICATION DEFICIENCIES

After an initial review of the application, the TCEQ may determine that the information provided with the application is not sufficient to make a use determination. The TCEQ may send a notice of deficiency, requesting additional information that must be provided within 30 days of the written notice.

14. FORMAL REQUEST FOR SIGNATURE

By signing this application, you certify that this information is true to the best of your knowledge and belief.

NAME: _____ DATE: 01/26/2007

TITLE: DIRECTOR – AD VALOREM TAX

COMPANY: VALERO ENERGY CORPORATION

Under Texas Penal Code, Section 37.10, if you make a false statement on this application, you could receive a jail term of up to one year and a fine up to $2,000, or a prison term of two to 10 years and a fine of up to $5,000.

*** Valero believes the subject property complies with the statutory requirements for a Pollution Control Property Tax Exemption.**

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
H. S. Buddy Garcia, *Commissioner*
Glenn Shankle, *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 18, 2007

RECEIVED
APR 18 2007
VALERO ENERGY CORPORATION
AD VALOREM TAX DEPARTMENT

VALERO ENERGY CORP
TREY NOVASAD
PO BOX 690110
SAN ANTONIO TX 78269 0110

This letter is to inform you that the technical review of Use Determination Application,06-10279, for:

VALERO PORT ARTHUR REFINERY
1801 S GULFWAY DR
PORT ARTHUR TX 77640

has been completed. The outcome of this review is as follows:

A negative determination for this project. This application is for equipment installed in order to meet 40 CFR 80: Regulation of Fuels and Fuel Additives. This regulation requires refiners of gasoline and diesel to reduce the sulfur content in their end products. In order to qualify for a positive use determination the property in question must be processed through the Decision Flow Chart (DFC)(30 TAC 17.25). In order for the property to successfully process through the DFC, 'yes' answers must be the result of evaluating the property against boxes 3 and 4. A yes answer is received for Box 3 since 40 CFR 80 is considered to be a valid adopted rule. Box 4 requires that the installation and use of the property produces an environmental benefit at the site. When we evaluate low sulfur fuel projects with regard to Box 4 of the DFC we receive a 'no' answer. The environmental benefit of these projects occurs when the consumer uses the low sulfur content fuels. These projects do not provide an environmental benefit at the site and as projects are not eligible for positive use determinations.

Section 11.31(a) of the Tax Code reads 'A person is not entitled to an exemption from taxation under this section solely on the basis that the person manufactures or produces a product or provides a service that prevents, monitors, controls, or reduces air, water, or land pollution.' The equipment listed on this application is used for the purpose of producing a product which is designed to control air pollution, the Tax Code excludes this equipment from being eligible for a positive determination.

House Bill 3121, enacted during the 77th Legislature Session, established a process for appealing a use determination. The Texas Commission on Environmental Quality (TCEQ) rules that implement the appeals process are at 30 TAC 17.25. Pursuant to 17.25(a)(1), an appeal must be filed within 20 days of receipt of the use determination. Should you choose to appeal the use determination, please submit a copy of your appeal to the TCEQ Tax Relief for Pollution Control Property program at the time of filing the appeal with the Chief Clerk of the commission. If you have any questions or require any additional information please contact the TCEQ Tax Relief for Pollution Control Property program at (512) 239-6348.

Sincerely,

Ronald L. Hatlett
Tax Relief for Pollution Control Property Program

TAX RELIEF FOR POLLUTION CONTROL PROPERTY: TECHNICAL REVIEW DOCUMENT

Reviewed By: RLH App. No.: 06 - 10279 Review Start Date: 3/7/2007
Company Name: PREMCOR REFINING GROUP INC
Facility Name: VALERO PORT ARTHUR REFINERY

TIER LEVEL
What Tier is this application? The application was filed as a Tier II application.

The equipment listed on this application is not located on the predetermined equipment list. Therefore it is not a Tier I application. Further review is required in order to determine if it is correctly filed as a Tier II or if it should be a Tier III.

RELEVANT RULE, REGULATION, OR STATUTORY PROVISION
The rule listed in the application is:
40 CFR 80 I

40 CFR 80 I: AIR PROGRAMS, REGULATION OF FUELS AND FUEL ADDITIVES, Subpart I-- Motor Vehicles, Nonroad, Locomotive, And Marine Diesel Fuel. This is a vlid rule.

DESCRIPTION OF PROPERTY
Description: Is an adequate description and purpose of the property provided? Does it list the anticipated environmental benefits? Are sketches and flow diagrams provided if needed?

The property is described as:

Ultra Low Sulfur Diesel Project Equipment LIst: SRU Desulfurizarion Unit Revamp, SWS Desulfurization Unit Revamp; ATU - 7842, GFU - 241; GFU - 243; DHT - 246; and Utilities & Off Sites.

This project does not make it through Box 5 with a yes answer.

DECISION FLOWCHART

Mark the appropriate boxes: Box 3 Y Box 5 N Box 6 Box 8 Box 10
Reason this box was chosen:
This project does not make it through Box 5 with a yes answer.
TIER III APPLICATIONS
Did the applicant use the CAP? Recalculate the CAP. Does your calculation agree with the applicants?

There is no Tier III calculation provided.

PROPERTY CATEGORIES AND COSTS

Is the table completed correctly? Has the applicant certified that all listed property became taxable for the first time after January 1, 1994? Is all information necessary for conducting the technical review included.

Yes

TECHNICAL REVIEW
Is the application technically complete? If the answer is no, what is missing? Provide the language used in the NOD letter. If yes then develop the use determination language.

Technically complete when received: N

1st NOD: See file

NOD RESPONSE

1st NOD: Disagree that there is not any environmental benefit at the site.

Full Property Description:

Ultra Low Sulfur Diesel Project Equipment List: SRU Desulfurizarion Unit Revamp, SWS Desulfurization Unit Revamp; ATU - 7842, GFU - 241; GFU - 243; DHT - 246; and Utilities & Off Sites.

DETERMINATION

Provide the reason for your determination.

Equipment fails to make it through Box 5 of the DFC. Under the rules there is only one possible outcome. An additional reason for the negative determination is 11.31a of the Tax Code. Which states that a person is not entilted to a positive determination for producing a product which controls pollution.

Provide the language for the final determination.
A negative determination for this project.

********** ED Approval Required: N **********

Reviewed by: Gary E. McArthur Date: 4/13/2007

Peer Reviewed By: Ronald J Hatlett Date: 4/13/2007