

Memorandum of Meeting

DNREC – Air & Waste Management

Air Quality Management Section

Meeting Date: December 15, 2004 1:00-4:00 pm

Location: Division of Motor Vehicles Dover Conference Room, Dover, DE

Purpose: DG Regulatory Development Workgroup Meeting #7

Work Group Members:

AFFILIATION	NAME	PHONE #	E-MAIL ADDRESS	PRESENT?
American Lung Association	Martha Bogdan	302-655-7258	mbogdan@alade.org	NO
Conectiv	Stu Widom or Bob Jubic (alternate)	302-451-5319 302-454-4036	Stu.widom@conectiv.com Bob.jubic@conectiv.com	YES
Delaware Department of Corrections	Jerry Platt	302-739-5601	Jerry.platt@state.de.us	YES
Delaware Electric Cooperative	Bill Andrew	302-349-3174	bandrew@decoop.com	NO
Delaware Energy Office – DNREC	Suzanne Sebastian or Charlie Smisson (alternate)	302-739-1530	Suzanne.sebastian@state.de.us Charlie.smisson@state.de.us	YES
Delaware Farm Bureau	Robert Baker	302-697-3183	rbaker28@earthlink.net	YES
Delaware Healthcare Association	Suzanne Raab-Long	302-674-2853	Suzanne@deha.org	YES
Delaware Nature Society	Seth Ross	302-368-5674	Sethross2001@yahoo.com	YES
Delaware Public Service Commission	Bruce H. Burcat or Bob Howatt or Kevin Neilson (alternates)	302-739-4247 302-739-3227 302-739-3228	bruce.burcat@state.de.us Robert.howatt@state.de.us Kevin.neilson@state.de.us	NO
Delmarva Poultry Industry, Inc.	Bill Satterfield	302-856-9037	Satterfield@dpichicken.com	NO
DNREC-AQM	Al Deramo	302-739-4791	Alfred.deramo@state.de.us	YES
DNREC-AQM	Mark A. Prettyman	302-739-4791	Mark.prettyman@state.de.us	YES
DNREC-AQM	Brad Klotz	302-323-4542	Bradley.klotz@state.de.us	NO
MBNA America	Galina Chadwick	302-457-5654	Galina.chadwick@mbna.com	NO
University of DE, Center for Energy & Environmental Policy	Dr. John Byrne or Melissa Turner or Leigh Glover (alternates)	302-831-8405	jbyrne@udel.edu mturner@udel.edu lglover@udel.edu	YES

Other Persons in Attendance

NAME	AFFILIATION	PHONE #	E-MAIL ADDRESS
Peter Heimlicher	Verizon	301-236-8124	b.p.heimlicher@verizon.com
Ron Amirikian	DNREC-AQM	302-739-4791	Ronald.amirikian@state.de.us
Ariel Joven	Downes Associates	410-546-4422	ajoven@downesassociates.com
David H. Thomas	City of Seaford	302-628-6020	dthomas@seafordde.com
Daniel Corrigan	Delaware Municipal Electric Coop.	302-659-0200	dcorrigan@demec.net
Paul Sample	Tech. Advisory Office Legis. Council	302-656-3212	sample@bellatlantic.net
David Bacher	NRG Energy, Inc.	302-540-0327	david.bacher@nrgenergy.com
Ali Mirzakhaili	DNREC-AQM	302-739-4791	Ali.mirzakhaili@state.de.us
R.C. Willin	Willin Farms, Inc.	302-629-2520	

Minutes:

Mark Prettyman called the meeting to order at 1:10 pm. After introducing himself, Mr. Prettyman asked everyone present at the meeting to introduce themselves. Per the agenda which was distributed, Mr. Prettyman stated that the meeting would begin with an overview of the third draft of the regulation, followed by questions and comments on the third draft or any other topics.

Mr. Prettyman began with a presentation which summarized the questions and comments received on the second draft of the DG regulation. For each question or comment, he summarized the changes Air Quality Management (AQM) made to the third draft of the DG regulation to address the question/comment. During the presentation, workgroup members or attendees asked questions, or began a more detailed conversation regarding some of the comments/issues covered. The following are topics which were discussed during or after Mr. Prettyman's presentation.

- One issue discussed was regarding mobile generators. A workgroup member asked if a generator is installed on a flat-bed trailer, would it be subject to this draft regulation. It was explained that since such a generator would be considered mobile, it would not be subject to the draft regulation, unless it remained at a single location for 12 consecutive months or more. At that time it would then be considered stationary and be subject to the draft regulation. One question that was asked was whether or not mobile generators can participate in load management or peak shaving. Mr. Prettyman replied that he was unsure about this, but would look into the matter to see if a mobile generator could.
- Regarding Section 3.2.1.2, a workgroup member asked why the provision was included to allow alternate emission requirements for a specific group of generator owners, and not for others. It was explained that the provision was included as a result of working with the affected generator owners (the participants in Delaware Electric Cooperative's interruptible service program). It was determined that these provisions would be best to ensure adequate control of these generators' emissions.

One other workgroup member stated that AQM should expect to receive a lot of comments for including this provision in the draft regulation.

- Part of Mr. Prettyman's presentation included the comment/request by schools to be exempt from the regulation, or be granted similar alternate requirements as are in Section 3.2.1.2. Suzanne Raab-Long, of the Delaware Healthcare Association, asked if, as part of the schools' request, AQM took into consideration whether or not the school would be acting as a shelter at times, including housing children who need respirators during emergencies. It was explained that, if a school wanted to use a generator for emergency purposes only, they are free to do so under the draft regulation; even when acting as a shelter, but only to provide emergency power during an outage. If the school wanted to operate the generator at times other than emergencies, such as participating in a demand response program for an economic gain, it would then be subject to the emissions standards of the draft regulation.
- When discussing the actual emissions standards for new distributed generators, an attendee asked if the Engine Manufacturers Association had changed their position since Draft 2 (the EMA commented that the standards in Drafts 1 & 2 were too stringent). Mr. Prettyman explained that AQM evaluated the EMA's recommended emissions standards in its comments, and has included them in Draft 3. Basically, the EMA's recommended standards can be met by gaseous-fueled generators without aftertreatment, and by diesel-fueled generators with aftertreatment. Stu Widom, Conectiv, asked about the basis of the carbon dioxide standards and if the EMA made any comments on them. Mr. Prettyman replied that the CO₂ standards in Draft 3 are the same limits which appear in the RAP model rule, and that the EMA did not make any comments against the specific limit of 1900 lb/MWh CO₂, but they did suggest that the standards for CO₂ be removed from the regulation. It was restated that the CO₂ limits are meant to be a "cap" on their emissions, to prevent them from increasing any higher, but are achievable now without aftertreatment. Mr. Widom stated that existing simple cycle gas turbines cannot achieve the initial 1900 lb/MWh CO₂ standard. Mr. Prettyman stated that the EPA lists CO₂ emission factors for gas turbines which are below this standard, but Mr. Widom replied that he has read documents which suggest otherwise. One of Mr. Widom's concerns was that turbines and other types of "distributed generation" are needed, and if generators cannot meet the standards, it could jeopardize the reliability and economics of energy on the peninsula. In order to try to resolve this matter, Mr. Widom agreed to discuss this issue with AQM further, outside of the meeting, to see if an alternative standard is more appropriate as a "cap" on CO₂ emissions.
- Another discussion during the meeting revolved around the standards for existing distributed generators. One workgroup member inquired why existing distributed generators are allowed to operate indefinitely, once they comply with the applicable standards for existing distributed generators. Due to the longevity of diesel generators, his concern was that these generators, though initially controlled, will be operating and emitting pollutants in the future at much higher rates than what will be required of new generators at that point in time. It was explained that the world of

existing generators (both emergency and distributed) is finite, and these generators will eventually need to be repowered or replaced, and that existing distributed generators will have to meet certain emissions standards (as opposed to just being “grandfathered” into the regulation without standards). Additionally, Section 3.3 requires the “Department” to complete a technology review within 4 years after the effective date of the draft regulation, which will include an analysis of data gathered during those 4 years. This information will help AQM decide on whether or not these existing generators have a large enough impact on air quality to require further controls, or not. In the meantime, it is felt that the requirements for existing distributed generators are sufficient.

- A few issues were discussed when Mr. Prettyman presented the comments/changes in Section 7.0 regarding manufacturer certification, compliance verification, and compliance reverification. Mr. Widom suggested that the time frame for reverification should somehow coincide with compliance dates for Title V facilities. Jerry Platt, Department of Correction, had a question about to whom/where should the necessary information/documents be submitted in order to verify compliance, since it does not explicitly state addresses or time frames. Workgroup members and attendees were asked to provide input/suggestions on these questions. Mr. Platt also commented that, as part of the recordkeeping of obtaining shipping receipts from fuel distributors (which detail the fuel sulfur content and test method used), state contracts with fuel suppliers could possibly mirror this requirement. Essentially, the contract would state that the fuel distributor must provide the customer with this information at that time the fuel is being delivered. Mr. Prettyman said he would contact someone within the state’s Division of Purchasing to inquire about this.

*NOTE: Mr. Prettyman has since been in contact with Althea Henry, who is the fuel procurement officer in Delaware for diesel fuels and biodiesel blends. Ms. Henry informed Mr. Prettyman that the current state contract does state that the fuel vendors must provide an invoice with the necessary information required in the draft regulation, but it does not specify when. Since the current contracts were just extended through September 2005, Ms. Henry said she would contact the vendors to see how receptive they would be to possibly amending the current contracts or future contracts. The possible contract change would be that the vendor would have to provide a similar receipt, if not the invoice, at the time the fuel is delivered, which would include the fuel sulfur content and the test method used to determine it. This would help ensure that the generator owner was indeed using a fuel which met the sulfur content requirement of the draft regulation.

- Part of Mr. Prettyman’s presentation included information about AQM possibly amending Regulation No. 2 to clarify what the permitting requirements will be for generator owners, as well as who will actually need a permit. It was explained that the information relayed to attendees at the meeting were just possibilities, and that no specific information on dates or numbers from the presentation should be taken as “set-in-stone” facts. Mr. Prettyman explained that if Reg. 2 is to be amended, the

normal regulatory development process would be followed, which could possibly result in proposing both “Regulation No. 44” and the amendments to Reg. 2 at the same public hearing. Attendees were informed that they would be notified of any proposed changes to Reg. 2, in addition to the other interested persons assembled and notified as part of the regulatory development process.

- The question was asked as to whether AQM purposely did not include an hourly limitation on testing and maintenance. Mr. Prettyman stated that the lack of an hourly limitation on testing and maintenance was on purpose. Mrs. Raab-Long further elaborated on the importance of not having an hourly limitation. She explained that since maintenance is usually performed to fix a problem, there is no certainty as to how long the maintenance may take or the frequency at which maintenance may need to be performed. Mrs. Raab-Long stressed that this was important to hospitals and healthcare facilities, and that it is important to them to be able to perform maintenance, and testing, as necessary. Regarding testing, Mrs. Raab-Long stated that hospitals must follow certain requirements which state that their emergency generators must be tested at routine intervals, and that the restriction of testing and maintenance on Ozone Action Days until after 5pm interferes with this. She has contacted other states and found that none of them have any restrictions similar to this one in the draft regulation. Mr. Platt stated that the Department of Correction has a similar requirement to test their emergency generators, but they do not have a problem with the 5pm limitation on Ozone Action Days since they test their generator using a load bank, as opposed to actually transferring load from the facility to the generator. Mrs. Raab-Long stated that she would look into whether or not using a load bank is an option for the healthcare facilities, and she would continue to gather information from them and provide comments on their behalf to Mr. Prettyman. She did stress that the facilities would make every effort not to test their generators during Ozone Action Days, but there should be no restrictions on testing included in the language of the draft regulation.
- One attendee asked if there was any reason that there is no size cut-off/restriction related to the emissions standards for existing distributed generators under Section 3.2.1.1. Mr. Prettyman replied that no size cut-off had been added since it was expected that all sizes of generators should have to, and would be able to, meet the same emissions standards. However, attendees were asked for their input as to whether or not varying standards are necessary for varying sizes of existing distributed generators.
- Another attendee had a more general question about the impact this draft regulation would have on system growth and reliability. A question he posed at the meeting was, if this regulation results in “cleaner air” by not allowing the use of generators as “distributed generation,” would the necessity for a new power plant (and the environmental effects from its construction and operation) negate the benefits this draft regulation would have? The attendee’s view seemed to be that this draft regulation does not adequately take into consideration the total impact it will have on the environment, including the land and water – not just the air.

At the conclusion of the meeting Mr. Prettyman thanked everyone for attending and for participating in the meetings, and that it was the last Distributed Generation Regulation Development Workgroup meeting. He relayed to the attendees that AQM will work on addressing the concerns which were brought up during the meeting, and he will notify workgroup members and interested persons in the future regarding any changes. Once all comments are received, evaluated, and addressed on this third draft, AQM will continue with the rest of the regulatory development process by developing a proposed regulation and holding Public Workshops. In order to get maximum public participation, it was agreed that it would be beneficial to hold a workshop in each county. Though no dates have been set for the public workshops, or for a public hearing, they are expected to take place in the next few months.

At 3:45 pm, Mr. Prettyman thanked everyone again for their participation and comments during the meeting, and adjourned the meeting.