



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. 2009-A-0030

Re: APPROVAL OF REVISION TO STATE IMPLEMENTATION PLAN FOR MEETING THE INFRASTRUCTURE REQUIREMENTS OF THE FEDERAL CLEAN AIR ACT FOR FINE PARTICULATE MATTER

Date of Issuance: September 1, 2009

Effective Date: September 1, 2009

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control (“Department” or “DNREC”) under 29 *Del. C.* §§8001 *et seq.* and 7 *Del. C.* §6010(c), this Order is entered to approve a revision to the State Implementation Plan required under the federal Clean Air Act and regulations promulgated by the United States Environmental Protection Agency (“EPA”).

Background

EPA delegated authority to the Department to administer certain responsibilities in Delaware under the federal Clean Air Act, as amended, 42 *U.S.C.* §§7401 *et seq.* (“CAA”). The delegation included preparing Delaware’s State Implementation Plan (“SIP”), which consists of regulations, source specific requirements, plans and emission inventories that together identify how Delaware will attain and maintain air quality that conforms to primary and secondary National Ambient Air Quality Standards (“NAAQS”), which are EPA regulations. Delaware’s SIP is reflected in EPA’s regulations at 40 *C.F.R. Part 52, Subpart I.* The Delaware SIP is subject to ongoing revisions, which reflects Delaware’s progress towards the goal of cleaner air quality. The

SIP provides a road map of the regulatory procedures undertaken to control and reduce air pollutants under the Department's authority provided by federal and state laws and regulations. EPA's regulations require that the Department submit Delaware's SIP revisions for EPA's review and approval. On September 21, 2006 EPA promulgated a new NAAQS for daily (24-hr) fine particulate matter, and Delaware, like other states, is required to submit its Report three years from the promulgation date, or by September 21, 2009. In response, the Department's technical experts within the Division of Air and Waste Management, Air Quality Management Section prepared a draft plan revision "State Implementation Plan for Meeting the Infrastructure Requirements of the Clean Air Act for Fine Particulate Matter" (hereinafter "Report"). The Department held a duly noticed public hearing on the Report on August 27, 2009 in the Department's Dover offices of AQMS. At the public hearing, the Department's expert, Mark Prettyman, presented the proposed report and introduced documents into the record to support its adoption as a final Plan revision. EPA presented the Department with additional written comments during the public comment period and the Department made the EPA recommended non-substantive changes as submitted as the proposed final plan at the hearing. The Department's presiding hearing officer, Robert P. Haynes, recommended at the hearing that the Department approve the proposed Report, as revised, and submit to EPA as a SIP revision to show compliance with the federal law and regulations.

The Department did not receive any comments except from EPA. The Department reflected the EPA suggested non-substantive changes in the revised Report admitted into the record at the public hearing, a copy of which is attached hereto as Appendix A. The Department's presiding hearing officer indicated at the public hearing

that he recommended approval of the proposed revision and that the record developed at the hearing, as described in the transcripts, supported his recommendation and would support a final decision.

Reasons and Findings

I find that approval of the Report in Appendix A is well-supported by the record developed at the public hearing and that the Report should be adopted as a revision to the SIP. The Report was the subject of public notices that provided the public with the opportunity to comment on the Report. The Department received only the comments from EPA during the public comment period that ended at the August 27, 2009 public hearing. I agree that the proposed SIP revision should be approved and that the Department should submit the Report in Appendix A to EPA to show Delaware's compliance with the CAA and EPA's reporting requirements under the CAA. The SIP revision sets forth the Department's progress in promulgating many regulations that will significantly reduce the emission of air pollutants and allow Delaware to comply with the 24-hour fine particulate matter NAAQS by 2014. These regulatory efforts will enable Delaware to meet the visibility related obligations imposed by the CAA and EPA's regulations and will result in healthier air for Delaware.

In conclusion, the following findings and conclusions are entered:

1. The Department, acting through this Order of the Secretary, hereby approves as reasonable the July 1, 2009 Report, revised on August 28, 2009 in response to EPA's non-substantive comments. The final Report is attached hereto as Appendix A, and together with this Order will be submitted to EPA as the latest Delaware SIP revision; and

2. The Department shall have this Order published in the *Delaware Register of Regulations* and in newspapers in the same manner as the notice of the proposed SIP revision.

s/Collin P. O'Mara
Collin P. O'Mara
Secretary