

Memorandum of Meeting

DNREC – Air & Waste Management

Air Quality Management Section

Meeting Date: June 16, 2004 1:00-4:00 pm

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

Purpose: DG Regulatory Development Workgroup Meeting #5

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	NO
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	NO
Delaware Farm Bureau	Robert Baker	302-697-3183	rlbaker28@earthlink.net	NO
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	YES
Delmarva Poultry Industry, Inc.	Bill Satterfield	302-856-9037	Satterfield@dpichicken.com	YES
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	YES
University of DE, Center for Energy & Environmental Policy	Dr. John Byrne or Terri Brower or Leigh Glover (alternates)	302-831-8405	jbyrne@udel.edu tbrower@udel.edu lglover@udel.edu	YES

Other Persons in Attendance

NAME	AFFILIATION	PHONE #	E-MAIL ADDRESS
Paul Sample	Tech. Advisory Office Legis. Council	302-656-3212	sample@bellatlantic.net
Joe Suchecki	Engine Manufacturers' Association	312-807-8734	jsuckecki@emamail.org
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Lex Grier	Downes Associates	410-546-4422	agrier@downesassociates.com
Dominic Balascio	For Delaware Electric Cooperative	734-7401	dbalascio@delawarelaw.com
Nancy Terranova	DNREC-AQM	302-739-4791	Nancy.terranova@state.de.us
Ray Stevens	DE Vol. Firemen's Association	302-436-8374	rstevens@fast.net
Robert Mulrooney	Christiana Care	302-733-3994	rmulrooney@christianacare.org
Ron Amirkian	DNREC-AQM	302-739-4791	Ronald.amirkian@state.de.us
Joel Bluestein	Energy & Environmental Analysis, Inc.	703-528-1900	jbluestein@eea-inc.com
Robert (Bobby) Jones	Duke Energy	302-672-6302	Bobby.jones@d-fd.com

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 and open discussion of the draft regulation, followed by additional issues to discuss related to the regulation.

Mr. Prettyman had a presentation prepared, which highlighted the requirements of the draft regulation, in order to guide the discussion of the meeting. However, some issues under discussion led to discussions of other requirements and parts of the draft regulation which were to be addressed later in Mr. Prettyman's presentation. Since the initial discussions often went off on tangents, these meeting minutes will not be a section by section summary of the comments made at the meeting. Instead, these minutes will detail the discussion of an issue as it was brought up, or led to, during the meeting. The following bullets address the issues discussed during the meeting.

- In Section 1.1, the purpose of the regulation is stated to be to address the emissions from generators, but the regulation is being called a "distributed generation" (DG) regulation. It was suggested that either the purpose be altered to imply that the regulation is addressing DG, or just state that the regulation will affect all generators. Also within the purpose, it was suggested to include "sulfur dioxide" as part of the emissions of concern since the regulation does include a fuel sulfur standard. It was also brought up that Delaware may not have the regulatory authority to regulate carbon dioxide, and is an issue which will be looked into.

- The question was brought up as to how this draft regulation interfaces with other air quality regulations...in particular, Regulation No. 2. It was explained that this draft regulation is trying to address units which are currently not subject to the requirements of the other regulations. Regulation No. 2 addresses the permitting requirements of affected sources.
- While combustion turbines were not included in the first draft of the regulation, their inclusion is a definitely possibility. Many persons at the meeting believed combustion turbines should be included in the regulation, due to the fact that they emit the same pollutants and operate in a similar manner. However, it was voiced that they should be regulated under a separate regulation, specifically addressing smaller turbines (<10MW), since there are already plenty of rules regulating the current turbines in the state, and any new ones which may be constructed. Depending on their size and use, some of the combustion turbines in the state have emission controls, and some do not. It was suggested that the workgroup take into consideration which turbines are subject to New Source Review (NSR) or Prevention of Significant Deterioration (PSD) in determining the applicability of the regulation to new OR existing units. Since a size limitation seems to be an issue regarding regulating turbines, it was suggested that the workgroup look at the Federal Energy Regulatory Commission's (FERC) interconnection standards for an applicable size range, since FERC has different standards for different size generators.
- A question was asked as to why there was no low end cut-off, below which generators would be exempt from the regulation. It was explained that the regulation is meant to be an output-based regulation which limits the rate at which a generator may emit a pollutant. Regardless of size, an uncontrolled generator emits pollutants at about the same rate. Thus, there is no reason to exempt a smaller generator when it is emitting pollutants at about the same rate as a much larger generator. This explanation is also the reason why residential units were not exempted from the regulation, which is another similar question posed at the meeting. In support of not exempting residential units, it was explained that most existing residential units are probably for "emergency use only," and in such case, the owner would only have to comply with the recordkeeping requirements of the regulation. Additionally, it seemed as though some persons were confused as to what generators would be subject to this regulation. This regulation only applies to stationary generators which: do not move or are not meant to be moved while operating, are used in a fixed application, or are used on the same property for more than 12 consecutive months. It was explained that a residence may have a small generator (approximately 0.5-3.0 kW) such as a Honda generator, which may or may not have wheels, but that type of unit would be considered a "mobile" generator, and would not be subject to this regulation. A stationary generator for a residence would typically be mounted on a metal frame or other solid base and provide power for most or all parts of the residence through a connection with the main breaker box.

- Regarding the compliance schedule, some persons believe that 6 months may be too soon for an existing unit to achieve compliance with the regulation. This is a reasonable assumption, and it was agreed that the time frame for compliance could be relaxed to about 9 months.
- The punctuation within the definition of “emergency” seems to make it unclear as to what qualifies as an “emergency.” It was agreed that the definition would be revised to make it clearer that an “emergency” means “lights out.”
- Including language within the definition of “emergency” to include times when PJM declares an “emergency event” was agreed to be a sensible idea. This would allow generators within PJM’s “Emergency Response Program” to operate when called upon (before lights out) and still be considered emergency generators. However, it was suggested that such a provision should allow any emergency generator to operate, in anticipation of a power outage. It was stated that such an option would be considered and looked into further, but it still was not definite that such a provision would even be included for PJM. The Department cannot delegate to PJM the authority to allow such generators to operate. Thus, specific conditions must be included within the regulation and be met prior to the operation of these generators. Currently, Air Quality is trying to determine the specific conditions which PJM would use in determining its need for these generators. Without knowing that these specific conditions are, Air Quality cannot include the provision in the regulation.
- Section 4.2 of the draft regulation states that “any generator (i.e., new and existing) may operator for an unlimited amount of hours during an emergency.” Though it is not explicitly stated, this applies to both emergency generators and non-emergency generators. Some persons stated that the section was confusing as to what type of generator it was referring to. Similarly, the definition of “non-emergency generator” seemed to confuse some people as to what it could be used for. Though not explicitly stated, a “non-emergency generator” may be used for emergencies, testing and/or maintenance, as well as any other type of operation. Some persons believed that a “non-emergency generator” would only be allowed to operate in cases other than emergencies and testing and/or maintenance, and that a separate generator would be needed for emergencies. Because of the confusion, the definition of “non-emergency generator” and Section 4.2 will both be made clearer.
- A generator meeting the requirements under Section 3.2.2 would be exempt from the specific emission requirements of 3.2.1 in the draft regulation. Many persons did not agree with specifying that this exemption only applied to participants in Delaware Electric Cooperative’s (DEC) Interruptible Service Program. This was also true with the specification of a “Rentar Fuel Catalyst” in the draft regulation. While the exemption may be a good idea, it was suggested that the requirements be more general in that they should apply to programs

similar to DEC's, and emission control devices similar to Rentar, but without citing specific companies or their technologies. It was also suggested that Air Quality set some sort of specifications for determining what devices are acceptable for the exemption.

- The emission requirements for new and existing “non-emergency generators” were discussed as to whether or not the limits are achievable. There was a general concern that the standards would require the use of aftertreatment devices on gas engines and prevent diesels from being used. A representative from the Engine Manufacturers’ Association stated that the NOx and other standards for new non-emergency generators are too low, and that a carbon dioxide standard is not appropriate, even though all engines could meet it. He also stated that the second tier of standards, to take effect in 2008, are too ambitious and unachievable, though 2010 may be a better year to propose a second tier. Overall, his concern was that the low standards may prove to be a disincentive to persons who are looking to buy a new generator. In relation to these standards, it was also pointed out that different standards may be needed for generators being fueled by landfill or digester gases because of the different composition and sulfur contents of these fuels.
- One requirement which many persons had questions about was the limitation of 50 hours per 12 consecutive months for the testing and maintenance of emergency generators. Some persons believed that 50 hours would not be enough. It was suggested that the 50 hours pertain to “scheduled” testing and maintenance since there is the possibility for many hours of unexpected maintenance due to emergencies or other situations. Others were more concerned as to what qualified for testing and maintenance. Some persons suggested that certain testing and maintenance of equipment (other than the generator itself) requires a generator to be run to provide backup power or to make sure that the testing and maintenance was successful. This need to perform testing and maintenance of certain “ancillary” equipment will be taken into consideration when revising the draft regulation.
- The restriction of testing on Ozone Action Days was a particular concern by healthcare representatives. They say that the normal testing of a hospital’s generator is prescheduled to allow hospital staff to be ready in case any problems arise during the testing. If the scheduled day of testing is declared an Ozone Action Day, it would be very hard for the hospital to reschedule and adequately notify its staff of the cancellation and subsequent new schedule for testing. It was suggested that this restriction be taken out of the draft, provide an exemption from it for hospitals, or specify specific hours of the day during which the testing could not be performed.
- A question was posed as to why operating restrictions are needed for generators if they do not have an emission standard, or if it meets the emission standards. It was explained that the restrictions are for emergency generators, which are

not expected to operate much (only during emergencies). Since testing and maintenance of the generator are a necessity, these hours need to be restricted or else the generator would cease to be an “emergency generator.”

- In regards to the fuel sulfur content requirement, it was suggested there may be an inconsistency between the federal sulfur requirement for onroad diesel and the sulfur content requirements in the draft regulation, if the federal rule is amended by the implementation date in 2006. If the federal rule is amended, this regulation would be amended as well to be consistent with the sulfur content or implementation date which was amended. It was suggested that the draft regulation adopt the requirements of the federal rule by reference, instead of specifically stating the sulfur contents and implementation dates. However, even if the requirements of federal rule were adopted by reference, this regulation would still have to be amended if there was any sort of change in the federal rule. The reason for this is so that it does not represent an invalid promulgation of a provision, since future changes would not have been subject to adequate public participation. It was noted at the meeting that “onroad diesel fuel” cannot be used in turbines because of the fuel’s composition, but simply citing that diesel fuel to be used in a turbine must meet the same sulfur content requirement would be adequate (if turbines become subject to the requirements of the regulation).
- A comment was made that suppliers cannot guarantee the sulfur content of their gaseous fuels at all times, but there is a tariff related to this issue, which will be looked into.
- During the meeting, the concern was brought up that some fuel suppliers may not provide the necessary shipping receipt and certification needed to comply with sulfur/biodiesel percentage determinations under Section 6.1.3. As an alternative to obtaining this information, it was suggested to allow samples from shipments of fuel, or a recently filled tank, to be sent to a laboratory for analysis to determine compliance with the biodiesel or fuel sulfur content requirement.
- Since “non-emergency generators” have no operating limitations, the question was asked why the owners of such units have to keep detailed records of the operating hours. It was explained that, if they were required to be submitted, the records could help evaluate the effectiveness of the regulation, and could help ensure a more complete and detailed emissions inventory for Delaware. However, it was agreed that there may be other ways to achieve this and not require such detailed records to be kept.

At the end of the meeting, Mr. Prettyman briefly went over two handouts which were distributed at the meeting. The first handout was new language for Section 7 of the draft regulation. This new section added language to allow manufacturers & suppliers to certify that their generators meet the emission standards of the regulation. It also adds language to allow owners to certify their generators using manufacturer

documentation and data, instead of on-site testing. There was a comment made regarding this new language to the effect that manufacturers would not be able to certify that a generator is capable of meeting the requirements of the regulation for “the lesser of 15,000 hours of operation or three years.” The second handout was new language which allowed owners to take credit for concurrent emissions reductions, such as flared fuels, combined heat and power applications, or use of non-emitting resources. This new section seemed to be supported by most persons in attendance since it provides an additional method for generators to meet the emission requirements.

At 4:15 pm, Mr. Prettyman thanked everyone present for their participation and comments during the meeting, and adjourned the meeting.