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**Subject:** Delaware Regulation 1125 Equivalency Demonstration

Ladies and Gentlemen – all my friends on the NSR Review Committee,

DNREC, after a long and difficult review has finally decided to drop the FEL concept. The note below from Ali explains the steps we have taken.

gene

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Greetings members of Delaware's NSR Review Committee,

DNREC's last official communication with you was a 3/23/07 e-mail which summarized the results of the 3/14/07 meeting. That meeting came after a long hiatus as team comments on Draft 4 of the FEL version of Regulation 1125 were solicited and then responded to by DNREC. We have not met as a Committee since 3/14/07 as we all wrestled with how to bring the FEL concept into a rule we could all accept.

We were not heartened by the response at the 6/27/06 meeting, where Draft 4 was distributed for comment, nor were we encouraged by the reaction of Committee members at the subsequent 3/14/07 meeting where a discussion of comments and responses was begun. We understood from the tenor of comments that there was an undercurrent of significant Committee concern with the FEL concept and an attempt to make a fundamental departure from the original concept by some members. Frankly, it seemed we were witnessing entrenchments of polarized positions signaling a failure to gain consensus or the death of the FEL.

After considerable discussion among AQM personnel followed by individual discussions with a number of Committee representatives by Gene and me, we were unable to identify a path to take the FEL forward. Therefore, having lost confidence that the merits that we saw in the FEL proposal were shared by the regulated community, we have decided to terminate pursuit of the FEL concept and to submit to the EPA Region III a demonstration that existing Regulation 1125 is at least as stringent as and most likely

more stringent than the current EPA NSR regulations. You may review a copy of that document and the supporting reference documents on the DNREC NSR website <http://www.awm.delaware.gov/Info/Regs/AQMNSR.htm>. What this basically means is that we will not be making any changes to our existing New Source Review program.

It is unknown when EPA will respond to this demonstration of equivalence; six nearby states delivered their demonstrations supporting similar rules in late 2005 and there has been no EPA response as yet (see <http://www.nescaum.org/documents/new-source-review-equivalency-demonstration-letters>).

Despite the above, I thank you all for the time and effort you expended in helping us to evaluate the federal NSR requirements. We gained a tremendous insight and appreciation of the issues and we appreciate your continued interest in Delaware's air quality and support of our program. Please feel free to contact Gene or me if you have any questions or wish to discuss this matter further.

Ali Mirzakhali  
Administrator  
DNREC - Air Quality Management Section