

Secretary's Order No.: **2005-A-0049**

RE: Proposed Adoption of New Regulation No. 1144, "Control of Stationary Generator Emissions" and Corresponding Amendments to Regulation No. 1102, "Permits"

Date of Issuance: December 14, 2005

Effective Date of the Amendment: January 11, 2006

**I. Background**

On Thursday, August 25, 2005, a public hearing was held at 6:00 p.m. in the DNREC Auditorium of the Richardson and Robbins Building, 89 Kings Highway, Dover, Delaware, to receive comment on the planned adoption of a new Air Quality regulation, Regulation No. 1144, "Control of Stationary Generator Emissions", and corresponding amendments to Regulation No. 1102, "Permits". Regulation No. 1144 will impact any owner of a stationary generator, except the owner of the following: any mobile generator; residential generator for emergency use only; certain generators whose emissions are already well controlled; or generators with a standby power rating of 10 kW or less. The amendments to

Regulation No. 1102 will clarify the permitting requirements for owners of stationary generators.

Delaware is not in compliance with Federal Air Quality standards for ground-level ozone and fine particulate matter (PM<sub>2.5</sub>). Among other things, the purpose of Regulation No. 1144 is to help ensure that the air emissions from new and existing stationary generators do not cause or contribute to these existing air quality problems. Regulation No. 1102 is being amended to clarify construction and operation permitting requirements as they apply to stationary generators.

Oral comments were received from members of the public that attended this hearing back in August, as well as written comments, which were received by the Department prior to the close of the public record regarding these proposed regulatory promulgations. The Department provided satisfactory responses to the questions posed by the public at the hearing in August, and also provided a Response Memorandum addressing the written comments entered into the record of this matter. Proper notice of the hearing was provided as required by law.

After the hearing, the Hearing Officer prepared her report and recommendation in the form of a Hearing Officer's Report to the Secretary dated December 13, 2005, and that report is expressly incorporated herein by reference.

## **II. Findings and Conclusions**

On the basis of the record developed in this matter, it appears that AQM has provided a sound basis for the proposed regulatory actions with regard to new Regulation No. 1144 and the amendments to existing Regulation No. 1102. Furthermore, the Department has given careful and serious consideration to all comments provided by the public with respect to this issue, and AQM's recommended conclusions with respect to each comment and the proposed action to be taken by the Department are well-reasoned and based on the record.

## **III. Order**

It is hereby ordered that the proposed adoption of Regulation No. 1144, "Control of Stationary Generator Emissions" and the proposed amendments to Regulation No. 1102, "Permits" should be promulgated in final form in accordance with the customary and established rule-making procedure required by law.

## **IV. Reasons**

The adoption of Regulation 1144 will aid the State of Delaware in ensuring that emissions from new and existing stationary generators do not cause or contribute to the existing air quality problems with regard to ground-level ozone and fine particulate matter, thereby adversely impacting public health, safety and welfare. Moreover, the amendments

to existing Regulation 1102 will result in clarification to existing construction and operating permitting requirements as they apply to stationary generators, and will assist the Department in furtherance of the policy and purposes of 7 Del. C., Ch. 60.

/s/ John A. Hughes .  
John A. Hughes  
Secretary