

HEARING OFFICER'S REPORT

Regarding: Proposed Revision to the State Implementation Plan (SIP)  
For the Attainment of the National Ambient Air Quality  
Standard for Ground-Level Ozone: New Regulation No. 45:  
*Excessive Idling of Heavy Duty Vehicles*

Lisa A. Vest  
Hearing Officer

March 10, 2005

**I. Background:**

A public hearing was held on January 25, 2005 in the Priscilla Building Conference Room, 156 South State Street, Dover, Delaware, to receive comment on a proposed revision to the State Implementation Plan (SIP) for the Attainment and Maintenance of the National Air Quality Standards for Ozone. The proposed revision will contain a new regulation, Regulation No. 45: *Excessive Idling of Heavy Duty Vehicles*.

Delaware has been designated moderate non-attainment for the eight hour ozone standard. In order to curb air emissions that adversely impact air quality in the State, the Department is proposing to regulate the engine idling time for the operation of most heavy-duty vehicles having a gross vehicle weight rating of over 8,500 pounds, regardless of the state in which the vehicle is registered. This regulation will continue the efforts by the State to reduce the emissions of NO<sub>x</sub> (nitrogen oxides), and will also assist in the reduction of particulate emissions and other tailpipe pollutants from vehicles operated in Delaware.

A workshop was held regarding this proposed new regulation on January 4, 2005, in order to help provide a draft of the proposed regulation before the time of the public hearing, and to provide an opportunity for the public to ask questions on this proposal. Written comments which suggested changes to the proposed new regulation were received by the Department during both the pre-hearing phase and at

the time of the hearing from two members of the public. These written comments will be discussed in greater detail below.

Following the hearing, the Division of Air and Waste Management provided comments to the Hearing Officer, responding to all written comments the Department had received concerning the proposed new Regulation No. 45, and that Response Document (along with the actual language of the proposed new regulation) has been formally incorporated into this Hearing Officer's Report for the Secretary's review. Proper notice of the hearing was provided, as required by law.

## **II. Summary of Record:**

The aforementioned proposed new regulation, Regulation No. 45 – Excessive Idling of Heavy-Duty Vehicles - would revise the State Implementation Plan (SIP) for the Attainment and Maintenance of the National Air Quality Standards for Ozone. Delaware has been designated as moderate non-attainment for the eight-hour ozone standard. In order to curb air emissions that adversely impact air quality in the State, the Department is proposing to regulate the engine idling time for the operation of most heavy-duty vehicles having a gross vehicle weight rating of over 8,500 pounds, regardless of the state in which the vehicle was registered. This regulation will continue the efforts by the State to reduce emissions of nitrogen oxides, and may also assist in the reduction of particular emissions and other tailpipe pollutants from vehicles operating in Delaware.

The proposal will restrict the idling time of applicable vehicles in any one stationary position for no more than three minutes. Certain vehicles in situations where it is absolutely necessary to idle the vehicle for its function would be exempt from this provision. Exemption is also allowed in the case of long-haul transports that must rest for ten hours, pursuant to Federal highway regulations. In such situations, truck idling may be needed to provide driver comfort during the rest period. Additionally, buses that are transporting passengers, as well as all emergency vehicles as defined within the proposal, are also exempt from the proposed provisions.

This new regulation is needed to reduce the exhaust emissions from heavy-duty vehicles, and will also carry the benefit of lessening the wear and tear on vehicles that excessive idling produces. An outreach effort will be conducted by the Department to inform those impacted by this regulation, as well as the general public. Fines for non-compliance could be as high as \$500.00 for each offense, but, in general, first offenders may be fined no more than \$50.00.

With respect to the comments received by the Department concerning this proposed new regulation, there was public input from Jack Taylor, Delaware Motor Transport Association (DMTA) and Dominic Yacono, Commander, U.S. Navy, Judge Advocate General's Corps (JAGC). Both of these written comments were submitted as a result of the Department's solicitation for input on the draft proposed changes.

With regard to Mr. Taylor's concerns, each was thoroughly addressed individually by Phil Wheeler of the Division's Air Quality Management's (AQM) Section in the formal Response Document provided to the Hearing Officer in this matter. Again, for the sake of brevity and completeness, the same is incorporated herein and attached hereto for the Secretary's review. In reference to Commander Yacono's written concerns that certain military training operations involve heavy duty vehicles that need to be operating continuously, AQM agrees that such vehicles are not unlike the vehicles that are exempt under the definition of emergency vehicles, because by definition, this is necessary vehicle idling. Therefore, it should be specifically noted that, in light of Commander Yacono's comments, AQM recommends an additional exemption be put in Section 5, specifically, *Military Tactical Vehicles engaged in training operations*.

**III. Conclusions and Recommended Findings:**

On the basis of the record developed in this matter, it appears that the Division of Air and Waste Management, Air Quality Management Section, has provided a sound basis for the proposed SIP revision, specifically, for new Regulation No. 45: *Excessive Idling of Heavy Duty Vehicles*. Therefore, I recommend that the proposed regulatory revision be promulgated in final form, in accordance with the customary and established rule-making procedure required by law.

In addition, I recommend issuing the attached Secretary's Order to effectuate this purpose and adopting the Hearing Officer's findings and conclusions as expressed hereinabove.

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Lisa A. Vest  
Hearing Officer