

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
DIVISION OF AIR AND WASTE MANAGEMENT
Air Quality Management Section
Statutory Authority: 7 Delaware Code, Chapter 60 (7 Del.C. Ch. 60)

FINAL

Secretary's Order No.: 2005-A-0019

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_x (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. After the hearing, the Department performed an evaluation of the evidence entered into the record in this matter. Thereafter, the Hearing Officer prepared her report and recommendation in the form of a Report to the Secretary dated March 10, 2005, and that Report is expressly incorporated herein by reference. Proper notice of the hearing was provided, as required by law.

II. Findings and Conclusions

All of the findings and conclusions contained in the Hearing Officer's Report dated March 10, 2005 are expressly incorporated herein and explicitly adopted as the findings and conclusions of the Secretary.

III. Order

In view of the above, I hereby order that the proposed regulatory revision be promulgated in final form, in accordance with the customary and established rule-making procedure required by law and as recommended in the Hearing Officer's Report.

IV. Reasons

Adopting the proposed SIP revision and addition Regulation No. 45 – *Excessive Idling of Heavy Duty Vehicles* - will be beneficial to the State of Delaware, in that the same will enable the State of Delaware to improve and/or enhance the overall performance of the Air Quality Management Section of the Division of Air and Waste Management. Furthermore, Regulation No. 45 will continue the efforts by the State of Delaware to reduce the emissions of NO_x and assist in the reduction of particulate emissions and other tailpipe pollutants from vehicles operated in Delaware.

John A. Hughes, Secretary

Regulation 45
Excessive Idling of Heavy Duty Vehicles

1.0 Applicability

This regulation applies to all on-road heavy-duty motor vehicles with a gross vehicle weight rating (GVWR) of greater than 8,500 pounds operating in the State of Delaware.

2.0 Definitions

The following definitions are applicable to this regulation:

“**Emergency vehicle**” means any publicly owned and operated ambulance, lifeguard, or lifesaving equipment or any privately owned or operated vehicle which is in response to an emergency call. Any publicly owned vehicle operated by the following persons, agencies, or organizations: (a) any federal, state, or local agency, department, or district employing peace officers for use by those officers in the performance of their duties, and.; (b) any forestry or fire department of any public agency or fire department. Any vehicle owned or operated for the purpose of: (a) fighting fires, (b) towing or servicing other vehicles, (c) caring for injured persons, or (d) repairing, maintaining and restoring public utility services necessary for the health and/or safety by any of the following: (1) the state, (2) a bridge and highway district, (3) a municipality and (4) a public or private utility Any state-owned vehicle used in responding to emergency fire, rescue or communications calls and operated either by the Delaware Emergency Management Agency or by any public agency or industrial fire department to which the Delaware Emergency Management Agency has assigned the vehicle. Any vehicle owned or operated by any department or agency of the United States government when the vehicle is used in responding to emergency fire, ambulance, or lifesaving calls or is actively engaged in law enforcement work. Any emergency vehicle which a permit has been issued by the Superintendent of the Delaware State Police.

“**On-road heavy-duty motor vehicle**” means any vehicle with a gross vehicle weight rating (GVWR) of greater than 8,500 pounds which is self-propelled and designed for transporting persons or property, including but not limited to trucks, buses, and farm vehicles.

3.0 Severability

Each section of this regulation shall be deemed severable. If any section of this regulation is held to be invalid, the remainder shall continue in full force and effect.

4.0 Operational Requirements for Heavy Duty Motor Vehicles.

The owner or operator of an on-road heavy duty motor vehicle shall comply with the following operational requirements unless specifically exempted from the operational requirements for these motor vehicles:

No on-road heavy duty motor vehicle shall be allowed to operate for more than three (3) consecutive minutes when the vehicle is not in motion.

5.0 Exemptions

5.1 any on-road heavy duty motor vehicle which is forced to remain motionless because of traffic conditions or mechanical difficulties over which the operator has no control; or

5.2 any situation where it is necessary to bring the on-road heavy duty vehicle to the manufacturer's recommended operating temperature; or

5.3 any situation when the on-road heavy duty vehicle is being repaired; or

5.4 any emergency vehicle defined in Section 2.0 of this regulation; or

5.5 any vehicle using auxiliary power for equipment to perform the intended operation of the vehicle, including, by way of example, a power take off generator for any utility truck; or

5.6 any vehicle idling for the necessary power for a heater, air conditioner, or any ancillary equipment during sleeping or resting in a sleeper berth such that the vehicle's location is not within 25 miles of a parking facility with available truckstop electrification equipment, either shore power or an advance system [that is approved by the Department including meeting all compatibility requirements with existing onboard truck shorepower equipment]; or

5.7 any vehicle idling to verify that the vehicle is in safe operating condition as required by law and that all equipment is in good working order, either as part of a daily vehicle inspection or as otherwise needed, provided that such engine idling is mandatory for such verification; or

5.8 any transit or school bus for up to five (5) minutes prior to passenger boarding; or

5.9 any transit or school bus when passengers are onboard; or

5.10 any vehicle when providing heat to the occupant and when the temperature is between -23 and 0 C, or -10 and 32 F, an engine shall not idle for more than 15 consecutive minutes; or when the temperature is below -23 C or

-10 F, and where no nuisance is created, an engine shall not be subject to idling restrictions [, or
5.11 any military tactical vehicle engaged in training operations.]

6.0 Enforcement and Penalty

This regulation is enforceable under Title 7 Chapter 60, §§6005 and 6013 of the **Delaware Code**. Violators are subject to a penalty of not less than fifty dollars (\$50) and not more than five-hundred dollars (\$500) for each offence.

8 DE Reg. 1486 (4/1/05)