

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

625 Broadway
Albany, New York 12233-1550

In the Matter

- of the -

Proposed Revisions to Part 200 (General Provisions),
Subpart 202-2 (Emissions Statements), Part 219 (Incinerators)
and Subpart 225-4 (Motor Vehicle Diesel Fuel)
of Title 6 of the New York Compilation
of Codes, Rules and Regulations.

HEARING REPORT

- by -

/s/

Kevin J. Casutto

/s/

Helene G. Goldberger

December 10, 2004

PROCEEDINGS

Background

The New York State Department of Environmental Conservation (DEC or Department) is proposing to amend Parts 200, 202, 219, and 225-4 of Title 6 of the New York Compilation of Codes, Rules and Regulations (6 NYCRR). The purposes of the Part 201 rule changes are to reflect requirements of the United States Environmental Protection Agency's (EPA) Consolidated Emission Reporting Rule and align emission reporting requirements with the operating permits issued to facilities pursuant to Part 201 and to incorporate new EPA test methods in Subpart 202-1, Emissions Testing, Sampling and Analytical Determinations. As part of this rulemaking, Part 200 will be amended to add new definitions, revise the Volatile Methyl Siloxanes table, and update cross references in 6 NYCRR § 200.9, Referenced Material.

The Department is also proposing to amend 6 NYCRR Part 200, General Provisions, §§ 200.9, Referenced Material and 200.10, Federal Standards and Requirement, and Part 219, Incinerators. The revision to § 200.9 updates the references to the federal regulations contained in the 2003 version of the Code of Federal Regulations (CFR). The revision also adds an incorporation by reference for a mercury test method which was omitted from a previous rulemaking. The revision to § 200.10 updates the references to the federal regulations to reflect the rules for which New York State has accepted delegation. The page numbers are updated to reference the 2003 CFR and a number of newly promulgated National Emission Standards for Hazardous Air Pollutants (NESHAP) rules are added. The revision to Part 219 adds a cross reference to a mercury test method which was not included during a previous rulemaking.

The Department also proposes to amend Subpart 225-4, Motor Vehicle Diesel Fuel, which sets sulfur content standards for motor vehicle diesel fuel beginning in 2006, to serve as a backstop to federal regulations. The sulfur content standard and implementation dates set by Subpart 225-4 are identical to the federal rules. Part 200.9 will be amended to incorporate federal definitions and requirements.

Hearing Notice

Notice of these hearings was published in the November 3, 2004 editions of the *Environmental Notice Bulletin*, the *State Register*, *Albany Times Union*, *Syracuse Post-Standard*, *Glens Falls Post Star*, *Rochester Democrat and Chronicle*, *The Buffalo News*,

New York Post, and *Newsday*. Written comments will be received by Department staff until December 16, 2004.

Hearings

Hearings took place as follows:

December 7, 2004 11:00 a.m.	NYSDEC, Region 8 6274 East Avon-Lima Road Avon, New York 14414
December 8, 2004 11:00 a.m.	NYSDEC, Central Office 625 Broadway, Room 129A Albany, New York 12233
December 9, 2004 11:00 a.m.	NYSDEC, Region 2 11-15 47 th Avenue, Hearing Room 106 Long Island City, New York 11101

DEC Administrative Law Judge (ALJ) Helene G. Goldberger presided over the Avon and Albany hearings and ALJ Kevin J. Casutto presided over the hearing in Long Island City.

No members of the public offered testimony at any of the three hearings.

At the Avon hearing, DEC staff member Edward Pellegrini provided a summary of the proposed revisions. In addition to the information that is set forth above in this report, with respect to the Subpart 225-4 revisions, he explained that reductions in sulfur content of diesel fuel reduce emissions of sulfur compounds which contribute to acid deposition and contribute to secondary formation of fine particulate matter in the atmosphere. He added that the proposed sulfur levels facilitate the use of diesel engine exhaust aftertreatment technologies on both new and existing vehicles. Such aftertreatment mechanisms can provide dramatic reductions in emissions of fine particulate matter and ozone precursors such as nitrogen oxides. Mr. Pellegrini stated that in the event the federal rule is weakened or delayed, the Department's proposed rule will ensure that these environmental benefits occur.

At the Albany hearing, Mr. Pellegrini along with Division of Air staff Mike Miliani and David Barnes, provided this same information. In Long Island City, Diana Menasha, of the Department's Region 2 Air staff gave this testimony.