

**Delta Thermo Energy, Inc.** (Lehigh County; Air Quality)

Delta Thermo approached the Department in 2010 with a plan to construct what company representatives claimed to be a research and development (“R&D”) energy production facility in the City of Allentown. The proposed facility would use sludge from the City of Allentown Waste Water Treatment Plant (Allentown WWTP) and municipal solid waste as fuel to generate 2.0 MW of electricity for the Allentown WWTP. Any excess electricity would be sold in *de minimis* amounts on an infrequent basis to recoup costs of the investment. Company representatives claimed it would be a first of its kind facility in the U.S. using new technology and that its emissions would be very low.

Delta Thermo submitted a Request for Determination (“RFD”), claiming that a plan approval (pre-construction and temporary operating permit) was not required on the basis that the facility fit within the R&D exemption in the Department’s list of Air Quality Permit Exemptions, created under 25 Pa. Code § 127.14. The Department issued an RFD to Delta Thermo, which contained “remarks” (i.e. conditions) requiring stack testing to show that the facility would meet the emissions limits in the R&D exemption; incorporated malodor, visible emissions and fugitive emissions requirements from the Department’s Air Resources Regulations; and specified that the company could not engage in the commercial sale of electricity except in *de minimis* amounts on an infrequent basis, as specified in the definition of Research and Development facility in 25 Pa. Code § 121.1.

On November 12, 2010, Delta Thermo appealed the RFD, objecting to several conditions in the document. Settlement discussions took place while the company continued to pursue financing, local approvals and a Department waste permit for the project. During this lengthy process, the proposed project changed and the Department gathered more information about what the company was proposing. Based on those changes and the additional information, the Department told Delta Thermo to submit a plan approval application, which the company did on March 29, 2013. That application is currently under review. In the meantime, the Board scheduled a hearing for June 4, 2013 on Delta Thermo’s appeal of the RFD. Delta Thermo was required to file its pre-hearing memorandum on or before April 10, 2013, but did not. The Board issued a Rule to Show Cause, requiring Delta Thermo to show, on or before May 3, 2012, why its appeal should not be dismissed for failure to comply with a Board Order. Delta Thermo failed to respond to the Board’s Rule and the Board dismissed the appeal on May 7, 2013.

On a side note, this project has the strong support of the mayor of Allentown and the company has won over the support of the city council. It, however, is not without opposition. During the week of March 18, 2013, opponents submitted petitions to the city containing more than 2,000 signatures in support of an ordinance that would limit emissions from the plant. The city is currently reviewing the petitions and determining whether they should adopt the proposed ordinance. If council votes on and rejects the petitions, the issue could be placed on the ballot for voters to decide. While the RFD application seems to have gone relatively unnoticed, the plan approval application is sure to get more attention as word spreads about the proposed project. (Sean L. Robbins (570) 826-2519).

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