

**In the Matter Of:**

*Department of Natural Resources & Environmental Control - Hearing*

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*PROPOSED VISIBILITY STATE IMPLEMENTATION PLAN*

*December 29, 2021*

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DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL  
OF THE STATE OF DELAWARE

RE: Proposed Visibility State  
Implementation Plan

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Virtual Public Hearing  
Dial-In Number: 1-408-418-9388  
Event Number: 2349 508 0655

Wednesday, December 29, 2021  
6:00 p.m.

.. . . . .

BEFORE: Lisa Vest, Hearing Officer

FOR THE DIVISION: Renae Held, DNREC

-- Transcript of Proceedings --

WILCOX & FETZER  
Registered Professional Reporters  
1330 King Street - Wilmington, Delaware 19801  
  
(302) 655-0477

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1 MS. VEST: Good evening. I believe  
2 that everyone is now connected and ready, so  
3 we are going to go ahead and begin tonight's  
4 proceedings.

5 I want to thank everybody for  
6 taking their time out of their busy schedules  
7 to attend the hearing tonight. The date is  
8 December 29, 2021, and we are here this  
9 evening to provide a virtual platform for  
10 DNREC to conduct its public hearing on a  
11 proposed Visibility State Implementation  
12 Plan.

13 For those of you who may not know  
14 me, my name is Lisa Vest, and Secretary  
15 Garvin has designated me to serve as hearing  
16 officer for tonight's proceedings.

17 To set the stage for tonight's  
18 proceedings, specifically with regard to  
19 DNREC's standard hearing protocols, this  
20 hearing is being conducted virtually. No  
21 staff is gathered together in the same room.  
22 Everyone is participating independently at  
23 their own respective locations.

24 While there are no sign-in sheets

1 to document physical attendance tonight, the  
2 WebEx platform that DNREC utilizes for their  
3 hearings does generate a list of those who  
4 are virtually present with us tonight at this  
5 proceeding, so the Department still maintains  
6 a verifiable record of those who have  
7 electronically joined this event. And,  
8 again, I thank everyone for their interest in  
9 this matter.

10 At the conclusion of these  
11 introductory remarks, I will be turning the  
12 hearing over to Renae Held, who is a member  
13 of the Department's Division of Air Quality.  
14 She will be making a formal presentation  
15 regarding DNREC's proposed SIP plan, which is  
16 the State Implementation Plan. She will be  
17 speaking a little bit more about what that is  
18 during her presentation.

19 There is still a court reporter  
20 virtually present. She will prepare a  
21 verbatim transcript of the hearing tonight  
22 pursuant to DNREC's statutory requirement to  
23 do so. And, as always, that transcript will  
24 be posed on the hearing webpage dedicated to

1 this matter as soon as it has been received.

2 We also have the ability to allow  
3 members of the public to offer comment if  
4 they preregister to do so. For tonight's  
5 matter, there were no members of the public  
6 who preregistered prior to tonight's event.  
7 So once Ms. Held's presentation is concluded,  
8 I will be saying a few concluding remarks,  
9 and the hearing will conclude at that time.

10 That being said, the Department  
11 wishes to ensure that the public is enabled  
12 to offer comments for inclusion into the  
13 record that's being generated in this matter.  
14 Therefore, the record will remain open beyond  
15 tonight's proceedings for the Department to  
16 receive comment through January 13, 2022.

17 I would encourage those attending  
18 the proceeding tonight to visit DNREC's  
19 public hearing webpage under the  
20 Administrative Law Section of the website for  
21 more details concerning this pending matter.

22 The Department's presentation,  
23 along with all of the Department's exhibits,  
24 and any other documentation related to this

1 matter, are all posted on the hearing page  
2 that's dedicated to this proposed SIP action,  
3 and the public may gain a wealth of  
4 information by reviewing the same.

5           Of course, all mechanisms  
6 previously available by which to offer  
7 comment remain: Electronic link, e-mail,  
8 and, of course, the United States Postal  
9 Service.

10           Also, the following protocols  
11 remain in place for all DNREC hearings:

12           Number 1: All comment received  
13 must be limited solely to the subject matter  
14 of tonight's hearing, which, as I have  
15 previously said, is the proposed SIP. All  
16 comments germane to that subject matter will  
17 be incorporated into the hearing record being  
18 generated in this matter.

19           Number 2: As previously noted, in  
20 order to ensure that everyone who wishes to  
21 offer comment for the Secretary's  
22 consideration is accommodated, the hearing  
23 record will remain open to receive comment  
24 through January 13, 2022.

1           Number 3: There is only one  
2 authentic record of this proceeding tonight,  
3 and it will be the official court reporter's  
4 verbatim transcript which, again, will be  
5 posted on the hearing page as soon as it has  
6 been received.

7           Number 4: The statutory purpose of  
8 tonight's hearing is to build the hearing  
9 record with regard to this proposed action.  
10 A record consisting of the transcript of  
11 tonight's hearing, any written comments that  
12 may be received between now and January 13,  
13 2022, all exhibits, and eventually the  
14 Hearing Officer's Report, will all be  
15 gathered and reviewed by Secretary Garvin.

16           The Secretary will ultimately issue  
17 an order following that review, and that  
18 order will contain his decision on this  
19 matter and the reasons therefor.

20           Number 5: It is very important to  
21 note that absolutely no decision has already  
22 been made by the Department, nor will any  
23 decision be made tonight with regard to this  
24 proposed SIP.



1           Again, the record is being held  
2 open through January 13, 2022 so that members  
3 of the public have ample opportunity to offer  
4 written comment for the Secretary's  
5 consideration, should they wish to do so.

6           Comments may be submitted through a  
7 comment form link on the hearing page, via  
8 e-mail to DNRECHearingComments@delaware.gov,  
9 or via the United States Postal Service at  
10 the physical address for DNREC indicated on  
11 the hearing page and the public notices that  
12 have previously been issued in this matter.

13           Please note that written comments  
14 to DNREC may not be submitted via social  
15 media platform such as Twitter, Facebook,  
16 YouTube, standard or text messaging.

17           Lastly, please note that whether  
18 comments were received prior to tonight's  
19 hearing, whether they were received in  
20 realtime tonight, or if they were received  
21 between now and when the record closes on  
22 January 13, 2022, regardless of the manner in  
23 which they are submitted, as long as they are  
24 received by the Department on or before

1 January 13th, all comments bear the exact  
2 same weight, and all will be considered  
3 equally by the Secretary prior to his making  
4 a final decision in this matter.

5           Again, the ultimate decision  
6 regarding this proposed action is made by  
7 DNREC's Secretary Garvin. This hearing  
8 tonight acts as a mechanism to enable the  
9 Department to thoroughly vet this proposed  
10 action to the public and to make the public  
11 aware of the various ways by which comment  
12 may be submitted for the Secretary's  
13 consideration.

14           That being said, I am going to turn  
15 the platform over to Renae Held, who, as I  
16 mentioned, has a brief presentation regarding  
17 this proposed action. So, Renae, you may  
18 take it away when ready.

19           MS. HELD: Thank you, Lisa.

20           Good evening. My name is Renae  
21 Held, and I'm a program manager with the  
22 Airshed Planning and Inventory Group for the  
23 Division of Air Quality in the Delaware  
24 Department of Natural Resources and

1 Environmental Control.

2 The purpose of this hearing is to  
3 take public comment on Delaware's Visibility  
4 State Implementation Plan.

5 A State Implementation Plan is a  
6 plan that identifies how a state will attain  
7 and maintain air quality.

8 Delaware's initial State  
9 Implementation Plan was approved by the  
10 Environmental Protection Agency on May 31,  
11 1972. Since this initial approval, the  
12 Delaware State Implementation Plan has been  
13 revised numerous times to address air quality  
14 issues.

15 Delaware's State Implementation  
16 Plan is compiled in Title 40 of the Code of  
17 Federal Regulations at Part 52, Subpart I.

18 Regional haze is defined as  
19 visibility impairment that is caused by the  
20 emission of air pollutants from numerous  
21 sources located over a wide geographical  
22 area. These emissions are transported over  
23 large regions and impact areas that include  
24 the entire State of Delaware.

1           The Clean Air Act mandates  
2 protection of visibility in national parks  
3 and wilderness areas, or Class I areas,  
4 through the Regional Haze Program.

5           The purpose of this program is to  
6 return the visibility conditions in Class I  
7 areas to natural conditions by 2064.

8           Class I areas are defined as  
9 national parks exceeding 6,000 acres,  
10 wilderness areas, national memorial parks  
11 exceeding 5,000 acres, or international parks  
12 that were in existence before 1977.

13           Visibility impairing pollutants  
14 include sulfur dioxide, nitrogen oxides,  
15 particulate matter, volatile organic  
16 compounds, and ammonia.

17           In 1999 and in various revisions  
18 that extended through 2017, the Environmental  
19 Protection Agency finalized the Regional Haze  
20 Rule. The rule calls for state tribal and  
21 federal agencies to work together to improve  
22 visibility in 156 national parks and  
23 wilderness areas.

24           Under the Regional Haze Rule,

1 states are required to develop a series of  
2 State Implementation Plans to address  
3 visibility impairment in Class I areas and  
4 make reasonable progress towards achieving  
5 natural visibility conditions.

6           Each plan covers a ten-year period.  
7 On September 25, 2008, Delaware submitted its  
8 Visibility State Implementation Plan to the  
9 Environmental Protection Agency. The report  
10 was approved on July 19, 2011. The plan  
11 covered the first implementation period of  
12 2008 through 2018.

13           This second Visibility State  
14 Implementation Plan covers the second  
15 implementation period of 2018 to 2028.

16           To aid states in their efforts to  
17 develop a technical basis for the states'  
18 implementation plans, five multistate  
19 regional planning organizations have been  
20 established. These organizations provide a  
21 forum for state air control administrators to  
22 develop regional strategies to address  
23 regional haze and to coordinate with other  
24 regions.

1           This State Implementation Plan was  
2 developed based on consultations and work  
3 products of the Mid-Atlantic Northeast  
4 Visibility Union Regional Planning  
5 Organization, of which Delaware is a member.

6           There are seven Class I areas  
7 located in the Mid-Atlantic and Northeast  
8 corridor: Brigantine Wilderness, New Jersey;  
9 Lye Brook Wilderness, Vermont; Presidential  
10 Range-Dry River Wilderness in New Hampshire;  
11 Great Gulf Wilderness, New Hampshire; Acadia  
12 National Park, Maine; Roosevelt Campobello  
13 International Park, New Brunswick; and  
14 Moosehorn Wilderness, Maine.

15           Delaware does not have any Class I  
16 areas within its quarters.

17           The main components of Visibility  
18 State Implementation Plans for states without  
19 Class I areas include a long-term strategy,  
20 enforceable emission limitations, compliance  
21 schedules, and other measures necessary to  
22 make reasonable progress toward visibility  
23 improvement in affected Class I areas,  
24 emissions trends, analysis of trends in

1 emissions of visibility impairing pollutants,  
2 and emission reduction strategies.

3 The states within the Mid-Atlantic  
4 Northeast Visibility Union Regional Planning  
5 Organization work together to develop  
6 coordinated strategies that will help Class I  
7 states improve visibility.

8 Now we would like to enter eight  
9 exhibits shown on the next two slides into  
10 the public record to support revision to  
11 Delaware State Implementation Plan.

12 MS. VEST: Okay. Thank you very  
13 much, Renae. For bookkeeping purposes, are  
14 the exhibits that you are displaying right  
15 now the same as those that are posted and  
16 identified on the hearing webpage dedicated  
17 to this matter?

18 MS. HELD: Yes. But I would like  
19 to mention something about Exhibit Number 7.

20 MS. VEST: Go ahead.

21 MS. HELD: For the Exhibit 7, the  
22 Proposed Visibility State Implementation  
23 Plan, it should be noted that Appendix 8-14  
24 of the plan titled "Agreement Governing the

1 Acquisition and Operation of Delaware City  
2 Refinery" was not posted in the Delaware  
3 notice that published on the December 1,  
4 2021.

5 A copy of Appendix 8-14 has been  
6 posted on the Department's public webpage,  
7 and the appendix is also being entered into  
8 the hearing record as part of Exhibit 7.

9 MS. VEST: Excellent. Thank you  
10 for that clarification, Renae.

11 Let the record reflect that the  
12 exhibits, as identified by the Department's  
13 Division of Air Quality just now, are hereby  
14 entered into the formal hearing record. Does  
15 the Department have anything further they  
16 wish to add at this time?

17 MS. HELD: No, we do not.

18 MS. VEST: Excellent. Okay. Thank  
19 you for that presentation, Renae.

20 Again, as I mentioned at the  
21 beginning of tonight's proceedings, we do  
22 have a mechanism by which members of the  
23 public can offer live comment at our virtual  
24 public hearings. There was no one that



1 preregistered to do so. So, that being said,  
2 we are going to move now to close the  
3 proceedings.

4 I want to thank everybody for  
5 taking the time out of this busy week toward  
6 the end of the year for joining us. Again,  
7 the record is not closing tonight. So if you  
8 are watching this and you are interested and  
9 you wish to offer comment, you may feel free  
10 to do so by any of the mechanisms that I  
11 mentioned before.

12 Feel free to visit the hearing  
13 webpage. And you can jump right off of that  
14 and enter a comment. As long as it is  
15 received on or before January 13, 2022, all  
16 comments bear the same weight, and all will  
17 be incorporated into the hearing record and  
18 considered by the Secretary prior to his  
19 making his decision in this matter.

20 Again, I want to thank everybody  
21 for taking the time tonight to join us. Have  
22 a happy and safe holiday. And this meeting  
23 is hereby adjourned.

24 (Concluded at 6:11 p.m.)

CERTIFICATE

I, Lorena J. Hartnett, a Notary Public and Registered Professional Reporter, do hereby certify that the foregoing is an accurate and complete transcription of the proceeding held at the time and place stated herein, and that the said proceeding was recorded by me and then reduced to typewriting under my direction, and constitutes a true record of the testimony given by said witnesses.

I further certify that I am not a relative, employee, or attorney of any of the parties or a relative or employee of either counsel, and that I am in no way interested directly or indirectly in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office on this 1st day of January 2022.



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Lorena J. Hartnett  
Registered Professional Reporter

Proposed Visibility State Implementation Plan - December 29, 2021

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Proposed Visibility State Implementation Plan - December 29, 2021

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