



DNREC Virtual Public Hearing

Proposed Amendments to:

7 DE Admin. Code 1130 “Title V State Operating Permit Program”

(Docket # 2023-R-A-0015)

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Computer Audio: Use the **audio connections menu** to turn audio on or off.

Telephone Audio: DIAL-in Number: 1-646-931-3860

Meeting ID: 889 9258 3729

Passcode: 098243

Comments will be accepted using the DNREC Comment form, via email, or by USPS mail as noted on the hearing event page (<https://de.gov/dnrechearings>)

Division of Air Quality

Proposed Amendments to 7 DE Admin. Code 1130 “Title V State Operating Permit Program” (Docket # 2023-R-A-0015)

Title V State Operating Permit Program:

- Title V of the Clean Air Act (CAA) requires the Environmental Protection Agency (EPA) to implement air quality operating permits (Title V permits) for major sources of emissions.
 - Ex: Powerplants, Refineries, or Manufacturing plants
- Regulation 1130 establishes the permitting procedures and requirements for Delaware’s Title V operating permits.

Division of Air Quality

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Title V State Operating Permit Program (Cont.):

- Title V permits require facilities to have specific emission monitoring and reporting requirements to demonstrate compliance.
- An **Emergency** is defined as: “any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency.”
- **Affirmative Defenses for Emergencies** – allows a permitted source to avoid liability for noncompliance when emission limits have been exceeded due to an emergency.

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Title V State Operating Permit Program (Cont.):

- EPA **removed** “emergency” affirmative defense provisions for state and federal operating permit programs from the Code of Federal Regulations Parts 70.6(g) and 71.6(g), in a July 21, 2023 final rule.
 - Provisions found inconsistent with the enforcement structure of CAA.
 - Final rule published in Volume 88 of the Federal Register Page 47029 (July 21, 2023).

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The objective of the amendments to 7 DE Admin. Code 1130 “Title V State Operating Permit Program”:

- To remove emergency affirmative defense provisions and references.
- To maintain consistency with the EPA current federal regulations:
 - 40 Code of Federal Regulations (CFR) 70.6(g), which outlined affirmative defense requirements for state operating permit programs.

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Proposed Amendments:

“6.0 Permit Contents

6.1 Standard Permit Requirements. Each permit issued under this regulation shall include all applicable requirements that apply to the permitted source at the time of issuance. Each permit shall include the following elements:...

6.1.3 Monitoring and Related Recordkeeping and Reporting Requirements...

~~6.1.3.3.1: Any deviation resulting from emergency conditions as defined in 6.7 of this regulation shall be reported within two working days of the date on which the permittee first becomes aware of the deviation, if the permittee wishes to assert the affirmative defense authorized under 6.7 of this regulation; [Reserved]...”~~

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Proposed Amendments (Cont.):

- 6.7: “~~Emergencies~~ [Reserved]...”
 - All subsections of 6.7 (6.7.1 through 6.7.5) are proposed to be removed.
 - These subsections detail the specific emergency affirmative defense provisions in Regulation 1130

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Proposed Amendments (Cont.):

- Appendix A: Insignificant Activities - Correct typographical error identified in subsection 8.0.
 - 8.0: “ Internal combustion engines and [in] vehicles used for transport of passengers or freight, except as may be provided in subsequent regulations.”
 - This update is nonsubstantive.

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Hearing Exhibit List:

- Exhibit 1: Regulation 1130 Technical Support Document
- Exhibit 2: Removal of Title V Emergency Affirmative Defense Provisions - EPA Final Rule
- Exhibit 3: Start Action Notice approved by the Department Secretary on October 10, 2023.
- Exhibit 4: Register Notice and Proposed amendments to 7 DE Admin. Code 1130, published in Delaware Register of Regulations on April 1, 2024.
- Exhibit 5: Affidavit and Legal Notice in the March 17, 2024 Delaware State News.

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Hearing Exhibit List (Cont.):

- Exhibit 6: Affidavit and Legal Notice in the March 17, 2024 News Journal.
- Exhibit 7: Notice for today’s hearing on the State of Delaware Public Meeting Calendar, dated March 15, 2024.
- Exhibit 8: Notice for today’s hearing, as posted on the website for DNREC Public Hearings, dated March 15, 2024.
- Exhibit 9: Regulatory Flexibility Analysis and Impact Statement Form, published in Delaware Register of Regulations, April 1, 2024.
- Exhibit 10: The Department’s presentation at today's hearing.



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Thank you for joining us. We will accept comments on this matter through May 10, 2024.

Comments may be submitted in writing

Via online form at <https://de.gov/dnrecomments>, via email to

DNRECHearingComments@delaware.gov, or USPS mail:

Theresa Smith, Hearing Officer

DNREC – Office of the Secretary

89 Kings Highway, Dover, DE 19901

The full verbatim transcript will be posted when it becomes available.

For more information, find the event page for this hearing on the DNREC Public Hearings page at

<https://de.gov/dnrehearings>