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State of Delaware  
Department of Natural Resources and Environmental  
Control (DNREC)  
Division of Waste and Hazardous Substances  
Public Hearing: Amendments to Regulations Governing  
Reporting of a Discharge of a Pollutant or Air  
Contaminant (7 DE Admin. Code 1203)

Docket No. 2024-R-WHS-0021

Moderated by Theresa Smith, Hearing Officer  
Wednesday, February 25, 2026  
6:02 p.m.

Remote Proceeding  
Dover, DE 19901

Reported by: Brianna N. Fleming  
JOB NO.: 7858797

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A P P E A R A N C E S

List of Attendees:

- Eileen Butler, Planner V, DNREC Division of  
Waste and Hazardous Substances (by  
videoconference)
- Nicole Burkhardt, Attendee (by videoconference)
- Larry Boyd, Attendee (by videoconference)
- Nomusa, Attendee (by videoconference)
- Blyncha, Attendee (by videoconference)
- Thomas Godlewski, Registered Commenter (by  
videoconference)

C O N T E N T S

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Ms. Butler

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NO.	DESCRIPTION	ID/EVD
Department:		
Exhibit 1	A Copy of Approved Start Action Notice # 2024-17 Pertaining to the Proposed Amendments	17/17
Exhibit 2	A Copy of the Regulatory Flexibility Analysis/ Regulatory Impact Statement, Corresponding to the Proposed Action and as Published in the February 1, 2026, Delaware Register of Regulations	17/17
Exhibit 3	A Copy of Register Notice SAN # 2024-17 and the Proposed Amendment to 7 DE Admin. Code 1203 Reporting of a Discharge of a Pollutant of Air Contaminant, as Published in the February 1, 2026, Delaware Register of Regulations	17/17

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Department:		
4	Exhibit 4	Proof of Publication of the	
5		Legal Notice Regarding the	
6		Proposed Amendments to 7 DE	
7		Admin. Code 1203 Reporting of	
8		a Discharge of a Pollutant or	
9		Air Contaminant in the	
10		February 4, 2026, Wilmington	
11		News Journal	17/17
12	Exhibit 5	Proof of Publication of the	
13		Legal Notice Regarding the	
14		Proposed Amendments to 7 DE	
15		Admin. Code 1203 Reporting of	
16		a Discharge of a Pollutant or	
17		Air Contaminant in the	
18		February 4, 2026, Delaware	
19		State News	17/17
20	Exhibit 6	Public Hearing Notice as	
21		Published on the DNREC	
22		Website on February 2, 2026	17/17
23			
24			

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Department:		
4	Exhibit 7	Notice of This Public Hearing	
5		as it Appeared on Delaware's	
6		Statewide Calendar and Posted	
7		January 27, 2026	17/17
8	Exhibit 8	Notice of This Public Hearing	
9		as it Appears on DNREC's	
10		Public Hearings Website	17/17
11	Exhibit 9	A Copy of the Hearing	
12		Presentation on Proposed	
13		Amendments to 7 DE Admin.	
14		Code 1203 Reporting of a	
15		Discharge of a Pollutant or	
16		Air Contaminant	17/17

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1 P R O C E E D I N G S

2 THE HEARING OFFICER: I want to thank  
3 you all for taking your time out of your busy  
4 schedules to connect with us today. The date is  
5 February 25, 2026. We are here this evening to  
6 provide a virtual platform for the State of Delaware's  
7 Department of Natural Resources and Environmental  
8 Control to conduct its virtual hearing on the proposed  
9 revisions to Docket Number 2024-R-WHS-0021. This is  
10 for the 7 DE Admin. Code 1203, "Reporting of Discharge  
11 of Pollutant or Air Contaminants."

12 My name is Theresa Smith, and Secretary  
13 Patterson has appointed me to serve as a hearing  
14 officer for tonight's formal proceeding.

15 First and foremost, this hearing is  
16 being conducted virtually. No one is together in the  
17 same room; everyone is participating independently at  
18 their own respective locations. While we are not  
19 physically gathered tonight, Zoom does generate a list  
20 of those who are virtually present, so the Department  
21 will have a record of those who have electronically  
22 joined this event.

23 At the conclusion of my introductory  
24 remarks, I will be turning the hearing over to the

1 Department's staff to provide their presentation for  
2 the record being generated in this matter. Once the  
3 presentation concludes, those persons who pre-  
4 registered in advance of this hearing will be  
5 acknowledged and provided an opportunity to offer  
6 comment on the proposed regulatory matter in alignment  
7 with DNREC's standard comment protocols.

8           There is a court reporter virtually  
9 present, who will prepare a verbatim transcript of  
10 this hearing, pursuant to the statutory requirement  
11 for DNREC to have the same prepared, and as always,  
12 that transcript will be posted on the hearing webpage  
13 dedicated to this matter as soon as it is received.

14           In addition, I would encourage those  
15 who are attending tonight's hearing to also visit the  
16 hearing webpage dedicated to this matter for  
17 additional details concerning the proposed regulatory  
18 matter. The hearing webpage can be found online under  
19 the administrative law section of DNREC's website.  
20 That will be posted at the conclusion of tonight's  
21 hearing.

22           Before we begin the presentation  
23 tonight, please be advised of the following protocols  
24 that remain in place for all DNREC hearings. All

1 comments received must be limited solely to the  
2 subject matter of tonight's hearing. All comments  
3 pertinent to the subject matter of this virtual  
4 hearing will be incorporated into the hearing record  
5 being generated in this matter. In order to ensure  
6 that everyone who wishes to offer comment for the  
7 Secretary's consideration is accommodated, the record  
8 in this matter shall remain open following tonight's  
9 proceedings through March 12, 2026. There is only one  
10 authentic record of the proceeding tonight, and it is  
11 the official court reporter's verbatim transcript.

12 The statutory purpose of tonight's  
13 hearing is to build record with regard to Department's  
14 proposed action, a record consisting of the transcript  
15 of the hearing tonight, all written comments, all  
16 exhibits, and eventually, the hearing officer's report  
17 will be re-reviewed by the Secretary Patterson. This  
18 secretary will ultimately issue an order, following  
19 that order review process, containing his decision on  
20 this matter and the reasons therefore.

21 Per DNREC standard hearing protocols,  
22 there will be no Q&A or chat session permitted during  
23 the hearing. Those who pre-registered to offer verbal  
24 comment will be acknowledged to speak at the

1 conclusion of the presentation portion of tonight's  
2 proceeding. Additional instruction with regard to the  
3 offering of verbal comment tonight will be provided at  
4 that time.

5 Lastly, it is important to note that no  
6 decision has already been made by the Department, nor  
7 will any decision be made tonight with regard to the  
8 proposed amendments to the regulation. As previously  
9 stated, DNREC wishes to ensure that everyone is  
10 enabled to offer their comments for inclusion into the  
11 record being generated in this matter. Therefore, the  
12 record will remain open through Thursday, March 12,  
13 2026, so that the public may offer written comment  
14 should they wish to do so.

15 Please be advised that only comments  
16 submitted directly to DNREC and entered in by myself  
17 into the formal hearing record in this matter will be  
18 posted on the hearing webpage and be considered by the  
19 Department as a part of the regulatory decision  
20 process. The Department has not partnered with any  
21 outside organization or websites to assist with the  
22 public submissions of comments in this matter, so  
23 again, only submit comments directly to DNREC.

24 Comments may be submitted through a

1 comment form link on the hearing webpage via email to  
2 DNRECHearingComments@delaware.gov or via the U.S.  
3 Postal Service at the physical address for DNREC  
4 indicated on the hearing webpage and/or the public  
5 notices previously issued in this matter. Written  
6 comments to DNREC may not be submitted using social  
7 media platforms, such as Twitter, Facebook, YouTube,  
8 or text messaging.

9           Please remember, all comment received  
10 either through USPS or via the electronic mechanisms  
11 just noted, as long as received by the Department on  
12 or before March 12th, will bear the exact same weight  
13 and will be considered equally by the Secretary prior  
14 to making his final decision.

15           Lastly, the ultimate decision regarding  
16 this matter is made by DNREC Secretary Patterson.  
17 This formal proceeding tonight acts as a mechanism to  
18 enable the Department to thoroughly vet the regulatory  
19 revisions matter to the public and to let the public  
20 know the various ways which comment may be submitted  
21 for Secretary Patterson's consideration if so desired.

22           I will now hand it over to Eileen  
23 Butler with the Division of Waste and Hazardous  
24 Substances to provide the Department's presentation.

1 MS. BUTLER: Thank you, Theresa.

2 And welcome, everyone.

3 To give a bit of background, Admin.

4 Code 1203 implements Chapter 60, which is the  
5 environmental protection statute, specifically Section  
6 6028. It is a department-wide regulation. That means  
7 that the Divisions of Water, Watershed Stewardship,  
8 Air Quality, and Waste and Hazardous Substances are  
9 all responsible for its implementation.

10 Okay. A main focus for this regulatory  
11 update involves the table that provides Delaware's  
12 reportable quantities for chemicals, substances, and  
13 wastes. It's been more than 20 years since it was  
14 reviewed or revised. Starting in October 2024 up  
15 through October of 2025, department staff met a total  
16 of six times to discuss various elements of the  
17 regulation. Meetings included topics such as specific  
18 chemical reviews, 6028 incident reports, disparities  
19 in petroleum reporting, and the associated internal  
20 database that houses reporting information. The  
21 following two slides provide a summary of the path  
22 forward from these meetings.

23 Regulations require that you report on  
24 a type of petroleum that is discharged, and there are

1 different amounts for different types of petroleum.  
2 For ease of reporting and for consistency with the  
3 Environmental Protection Agency, the Department is  
4 proposing to combine reporting requirements for all  
5 petroleum products and no longer differentiating  
6 between types of petroleum.

7           Additionally, words were defined for  
8 purposes of clarity, and now the person who calls in  
9 to inform the Department of the discharge will need to  
10 indicate if the release is above reportable quantity  
11 for that chemical or chemicals. Language surrounding  
12 infectious waste was contradictory in the regulation.  
13 For example, in one location, the regulation required  
14 no written report to be submitted, and in another,  
15 requiring such a report. So as a result and going  
16 forward, the update will require a written report  
17 whenever there is infectious-waste release.

18           Wanting to ensure a quick response time  
19 to identify the cause of a discharge, the Department  
20 desires to reduce the amount of time a facility has to  
21 provide that 6028 incident report, where such  
22 information as cause of release and actions taken to  
23 remedy the situation are provided within 15 days  
24 rather than 30.

1           As I stated earlier, we added  
2 definitions for clarity. Those definitions include  
3 "contained," "impervious," and "persons." The  
4 definition of "persons" was taken directly from  
5 Chapter 60, the statute for environmental protection,  
6 and the words "contained" and "impervious" relate to  
7 when and whether a person needs to report a discharge.

8           -- Section 3 has been amended, and  
9 added requirements to indicate if the release is above  
10 the reportable quantity will now, as I said earlier,  
11 be the responsibility of the person reporting the  
12 release. And the distinction for when a person has to  
13 prepare a written report has been clarified, again,  
14 with the change for submission of that report from the  
15 current 30-day submittal to 15. And all these changes  
16 are found in Section 3.

17           It is in Section 4 where you'll find  
18 the regulation streamline reporting requirements for  
19 all petroleum substances. No longer is there a  
20 differentiation between motor fuel, jet fuel, heating  
21 oil, or other petroleum substances. If the discharge  
22 is underground, uncontained, or has the potential to  
23 get into waterways, that discharge has to be reported.

24           In the next slide, I will show you the

1 changes to Table A that provide the specific  
2 reportable quantities for chemicals, substances, and  
3 waste, but I wanted to let you know that the beginning  
4 of the table is a bit different and that we provide  
5 the most common reportable quantities up front for  
6 ease of the user that may have to report. We also  
7 included animal and plant fats, oils, and greases to  
8 reflect federal spill-prevention control and  
9 countermeasure requirements used for oil spills and  
10 cleanup actions.

11 So you can see here how certain  
12 hazardous substances and wastes were separated from  
13 the chemicals and substances listed below. The table  
14 itself has some minor changes to it. For example, 3-  
15 bromopropyne should never have been 500 pounds. This  
16 was a serious mistake. Dibenzoyl peroxide and benzoyl  
17 peroxide are the same thing, so we combined the two  
18 entries into one and went with the more conservative  
19 number for reporting purposes.

20 Lastly, hydrogen has been reduced to  
21 300 pounds in recognition of technological changes  
22 that have occurred over time in how hydrogen is  
23 transported and used in processes in Delaware.

24 When the regulations were published in

1 the Register of Regulations, there were minor mistakes  
2 that I would like to make note of now, during the  
3 hearing. In the definitions section, the top entry  
4 you see on the slide here is what I submitted to the  
5 registrar's office, but the middle entry, the  
6 environmental emergency notification and complaint  
7 number, is what was actually published, so it's  
8 missing the word "means." And I made a mistake to not  
9 strike out an asterisk in Table A. The word "all"  
10 should not have an asterisk next to it. And then  
11 lastly, in some areas of the Table A and the RCRA  
12 table below Table A in the regulation, there seems to  
13 have been strikeouts on chemicals, and then the  
14 chemicals were reinserted and underlined. There were  
15 no changes, but both actions were unnecessary.

16 Here's where the asterisk right here  
17 needs to be struck or should have been struck. And  
18 for example, "bicyclo-heptane-2-carbonitrile," for  
19 some reason, was crossed out and then inserted again.  
20 I think it was a glitch in the system because this is  
21 what was actually submitted, the line with the  
22 highlighted CAS number, but this was what was  
23 published. So this happened throughout the chart, in  
24 some areas of the tables, but no changes to chemicals

1 or amounts occurred except those that were highlighted  
2 earlier, in the earlier slide.

3 There are a number of exhibits showing  
4 compliance with the administrative procedures act and  
5 Delaware's regulatory development process. They're  
6 all online, including this PowerPoint presentation.  
7 And that ends my presentation. Thank you for  
8 attending.

9 THE HEARING OFFICER: Thank you,  
10 Ms. Butler. I have received the exhibits that were  
11 just listed and that we electronically receive those,  
12 and as Ms. Butler said, those exhibits are posted  
13 online and are hereby marked as the Department's  
14 Exhibits 1 through 9.

15 (Department Exhibit 1 through Exhibit 9  
16 were marked for identification and  
17 received into evidence.)

18 Now that the presentation has  
19 concluded, we will turn our attention to those who  
20 pre-registered for the opportunity to offer verbal  
21 comment at tonight's hearing. Per the protocol set  
22 forth on DNREC's public hearing webpage, those wishing  
23 to offer verbal comment during the virtual hearing  
24 must have pre-registered with DNREC no later than noon

1 of the day of the hearing.

2           There is one pre-registered commenter  
3 that we have tonight. To assist that commenter with  
4 regard to the amount of time they have, there is going  
5 to be a virtual timer that will appear on the screen,  
6 and it'll count down three minutes. When it is that  
7 speaker's turn to comment, that speaker's audio will  
8 be unmuted, their identity will be confirmed, and the  
9 timer will begin. At the end of the three minutes,  
10 the speaker's audio will be automatically placed on  
11 mute. If the speaker is not able to finish their  
12 comment within the 3-minute time period, the  
13 Department encourages them to submit their completed  
14 comment in writing no later than March 12th.

15           All comments must adhere to the DNREC's  
16 protocols with regard to offering verbal comment,  
17 including respecting the three-minute time limit,  
18 making their comments as concise as possible, and  
19 limiting their comments to the subject matter of this  
20 hearing. There is no yielding of time from one  
21 commenter to another. No commenter will be granted  
22 more than three minutes of time to speak for any  
23 reason.

24           It is important to note that multiple

1 comments saying the same thing, whether in writing or  
2 verbal tonight, do not outweigh one singular comment.  
3 Simply put, comments are not votes. So while the  
4 Department appreciates all comments received, there  
5 will be a zero-tolerance policy in effect for  
6 disruptive behavior, disparaging remarks, offensive  
7 language, or personal attacks on DNREC.

8 Also, please note that there is no  
9 video feed of the commenter; it will be audio only.  
10 All comments will be transcribed by the court reporter  
11 and thereby incorporated into the hearing record.

12 With that being said, in one moment I'm  
13 going to call upon Thomas Godlewski. Godlewski.  
14 Sorry about that.

15 Thomas Godlewski, give me one second,  
16 and I will request for your mic to be unmuted. Oh,  
17 you're unmuted. You're good. Thomas, you may begin  
18 your comment once you see the "three" timer pop up.  
19 Go ahead.

20 MR. GODLEWSKI: Sorry to waste your  
21 time, reading all those rules. I think I'll forego my  
22 comments and submit them in writing instead. Thank  
23 you.

24 THE HEARING OFFICER: No problem.

1                   Okay. That was the one commenter that  
2 we did have for tonight that pre-registered, so with  
3 that being said and the division's presentation being  
4 completed, we'll go ahead and wrap up the hearing.

5                   I want to thank you all for joining us  
6 tonight, and again, the record will remain open  
7 through March 12, 2026. I want to thank you all for  
8 attending. The hearing is now concluded at 6:19 p.m.

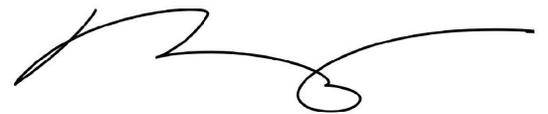
9                   (Whereupon, at 6:19 p.m., the  
10 proceeding was concluded.)

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CERTIFICATE

I, BRIANNA N. FLEMING, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



BRIANNA N. FLEMING  
Notary Public in and for the  
State of Maryland

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CERTIFICATE OF TRANSCRIBER

I, LISA PARK, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



LISA PARK

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