

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF AIR QUALITY

Statutory Authority: 7 Delaware Code, Section 6010(a) and (c) (7 **Del.C.** §6010(a) & (c))
7 **DE Admin. Code** 1114

PROPOSED

PUBLIC NOTICE

SAN # 2023-15
DOCKET # 2023-R-A-0027

1114 Visible Emissions

1. TITLE OF THE REGULATIONS:

7 **DE Admin. Code** 1114 "Visible Emissions".

2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:

The Division of Air Quality of the Department of Natural Resources and Environmental Control (DNREC) is proposing to amend 7 **DE Admin. Code** 1114, Section 1.0 "General Provisions" and Section 2.0 "Requirements", regarding opacity limits during the startup, shutdown and malfunction of equipment.

On June 12, 2015 the Environmental Protection Agency (EPA) identified the State Implementation Plans (SIP) of 36 states as inadequate because they allegedly allowed unregulated excess emissions (80 FR 33840). This EPA action is known as the "Startup, Shutdown, and Malfunction (SSM) SIP Call". 7 **DE Admin. Code** 1114 "Visible Emissions" was cited in the SSM SIP Call because the EPA believed the regulation did not appropriately restrict emissions during start-up or shutdown events. On October 23, 2023 EPA issued a final rule disapproving Delaware's November 26, 2016 SSM SIP Call submittal for Regulation 1114 (88 FR 72688). Delaware is proposing to amend Regulation 1114 in response to EPA's disapproval, to comply with the 2015 SSM SIP Call.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 **Del.C.** Ch. 60, Section 6010 (a) and (c).

5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:

None.

6. NOTICE OF PUBLIC COMMENT:

A virtual public hearing (Docket # 2023-R-A-0027) will be held on Tuesday, August 27, 2024, beginning at 6 p.m. The web link to the virtual hearing can be accessed through the DNREC Public Hearings site at <https://de.gov/dnrechearings>. If prompted for a password, please use: 478566. To access the audio-only portion of the virtual hearing, dial 1-646-931-3860 and enter the Meeting ID 837 6527 6725. Closed captioning in over 20 languages, including English and Spanish, is available to attendees via the Zoom platform utilized for all DNREC Public Hearings.

Those wishing to offer verbal comments during DNREC virtual public hearings must pre-register no later than noon on the date of the virtual hearing at <https://de.gov/dnrecomments> or by telephone at 302-739-9001.

The proposed amendments may be inspected online starting August 1, 2024 at http://regulations.delaware.gov/services/current_issue.shtml, or in-person, by appointment only, by contacting Kelsey Pangman by phone at 302-323-4542 or by email at Kelsey.Pangman@delaware.gov.

The Department will accept public comment through the close of business on Wednesday, September 11, 2024. Comments will be accepted in written form via email to DNRECHearingComments@delaware.gov, or by using the online form at <https://de.gov/dnrecomments>, or by U.S. mail to the following address:

Theresa Smith, Hearing Officer
DNREC - Office of the Secretary

7. PREPARED BY:

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1114 Visible Emissions

41/11/2013

1.0 General Provisions

- 1.1 The purpose of this regulation is to control the emissions of visible air contaminants from all stationary sources.
- 1.2 Measurements of air contaminant visibility shall be in accordance with accepted practices of Ringelmann values or opacity percentages.
- ~~1.3 The provisions of this regulation shall not apply to the start-up and shutdown of equipment which operates continuously or in an extended steady state when emissions from such equipment during start-up and shutdown are governed by an operation permit issued pursuant to the provisions of 2.0 of 7 DE Admin. Code 1102.~~

21 DE Reg. 883 (05/01/18)

2.0 Requirements

- 2.1 No Except as outlined in 2.2, no person shall cause or allow the emission of visible air contaminants or smoke from a stationary or mobile source, the shade or appearance of which is greater than 20% opacity for an aggregate of more than three minutes in any one hour or more than 15 minutes in any 24 hour period. For guideline purposes only, Shade Number 1 of the Ringelmann Smoke Chart coincides with the regulatory limit of 20% opacity, when observing black smoke.
- 2.2 During the start-up and shutdown of equipment, no person shall cause or allow the emission of visible air contaminants or smoke from a stationary or mobile source, the shade or appearance of which is greater than 40% opacity for more than 6 consecutive minutes in any 1 hour period.

17 DE Reg. 536 (11/01/13)

21 DE Reg. 883 (05/01/18)

07/17/1984

3.0 Alternate Opacity Requirements

- 3.1 Whenever the Secretary determines that a source complies with an applicable mass emission standard and demonstrates that the opacity of the complying emissions is more restrictive than the requirements of 2.0 of this regulation, the Secretary will make an appropriate adjustment to the opacity standard for the affected source.
- 3.2 Whenever an owner or operator can establish compliance with an applicable mass emission standard and fails to comply with 2.0 of this regulation, the owner or operator may petition the Secretary setting forth the results of the emission testing or evaluation and request the Secretary to make an appropriate adjustment to the opacity standard for the affected source.
- 3.3 The Secretary may grant such a petition as outlined in 3.2 of this regulation upon a demonstration by the owner or operator that the affected source and associated air pollution control equipment was operated and maintained during the mass emission test in a manner to minimize the opacity of emissions during emission testing or evaluation that the mass emissions testing was performed in accordance with procedures approved by the Department; and that the affected source and associated air pollution control equipment is incapable of continuously meeting applicable opacity standards as set forth in 2.0 of this regulation.
- 3.4 The Secretary may establish an opacity standard for the affected source at a level at which the source will be able to meet the adjusted opacity standard at all times during which the source is meeting the applicable mass emission rate standard. The Secretary will make the adjusted opacity standard a part of the operating permit in the form of an operating condition.
- 3.5 Any action by the Secretary pursuant to the provisions of 3.0 of this regulation shall be incorporated in the State Implementation Plan.

07/17/1984

4.0 Compliance with Opacity Standards

For purposes of this regulation, compliance with opacity standards shall be in accordance with 1.5.3 of 7 **DE Admin. Code** 1120.

12 DE Reg. 347 (09/01/08)

17 DE Reg. 536 (11/01/13)

21 DE Reg. 883 (05/01/18)

28 DE Reg. 103 (08/01/24) (Prop.)