

**In The Matter Of:**

*Department of Natural Resources & Environmental Control  
Proposed Changes*

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*Public Hearing  
December 6, 2016*

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*Wilcox & Fetzer, Ltd.  
1330 King Street  
Wilmington, DE 19801  
email: [depos@wilfet.com](mailto:depos@wilfet.com), web: [www.wilfet.com](http://www.wilfet.com)  
phone: 302-655-0477, fax: 302-655-0497*



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES AND  
ENVIRONMENTAL CONTROL  
DIVISION OF WASTE AND HAZARDOUS SUBSTANCES

In the Matter of Proposed  
Changes to Delaware's  
Regulations Governing  
Above-Ground Storage  
Tanks

PUBLIC HEARING

DNREC  
391 Lukens Drive  
New Castle, Delaware

Tuesday, December 6, 2016  
6:06 p.m.

BEFORE:

LISA VEST  
The Hearing Officer

APPEARANCES:

On Behalf of DNREC:

ALEX RITTBERG  
KIMBERLY GOULD  
LORI SPAGNOLO  
BARBARA A. FAWCETT  
MICHAEL MOYER

TRANSCRIPT OF PROCEEDINGS

WILCOX & FETZER  
1330 King Street - Wilmington, Delaware 19801  
(302) 655-0477  
www.wilfet.com



1 THE HEARING OFFICER: We're  
2 going to go ahead and start this evening's  
3 proceedings. The time is approximately  
4 6:07 p.m. on Tuesday, December 6, 2016.

5 Can everyone hear me okay?

6 We're here tonight to take  
7 public comment and thoroughly vet the  
8 Department's proposed amendments to 7 Delaware  
9 Admin. Code 1352, otherwise known as  
10 Delaware's regulations governing above-ground  
11 storage tanks.

12 A few comments from me on  
13 protocol for tonight's hearing. I am going to  
14 be turning it over to Department personnel who  
15 have a brief presentation concerning these  
16 proposed amendments.

17 When they're done with their  
18 presentation, I will then open the floor to  
19 anybody that wishes to offer comment. I do  
20 have the sign-in sheet up here. If there's  
21 anybody that still needs to sign up, please  
22 feel free to add your name at the conclusion  
23 of tonight's proceedings.

24 One thing that should be kept in



1 mind is that no decision is made tonight on  
2 this matter. This is merely the forum, so to  
3 speak, to receive public comment. Again, if  
4 anyone attending tonight wishes to do so, the  
5 record will remain open following tonight's  
6 hearing. So there's no need for any decision  
7 to be made tonight. We're merely the  
8 receiving house, if you would, for comments so  
9 that the Secretary can take that all into  
10 consideration prior to making a decision in  
11 the matter.

12 That being said, I am going to  
13 turn it over to Alex Rittberg who will  
14 coordinate the Department's presentation this  
15 evening.

16 MR. RITTBERG: Thank you, Lisa.  
17 Hi, everyone. I'm  
18 Alex Rittberg. I'm the program administrator  
19 for the Tank Management Section. Thank you  
20 for coming out on such a rainy night. I  
21 really appreciate it.

22 This is our website, the DNREC  
23 Tank Management Section. I want to bring this  
24 up because we have posted various links



1 regarding this rule-making effort. Some of  
2 the history, as well as links to the proposed  
3 regulations that are posted on the state  
4 register website.

5 Just some opening remarks before  
6 we get into the presentation. These  
7 regulations, the purpose is to prevent leaks  
8 and releases from above-ground storage tanks,  
9 and if a release happens, then there's  
10 regulations that speak to the effective  
11 cleanup so the cleanup gets done in a timely  
12 and effective manner.

13 There's different parts of the  
14 regulations. We're going to start with Part A  
15 of the regulations, and Barbara Fawcett is  
16 going to begin. And is it okay if we start  
17 with the presentations before the exhibits?

18 THE HEARING OFFICER: Sure.

19 MR. RITTBERG: Following the  
20 presentation I'll then read into the record  
21 the list of exhibits that support the  
22 rule-making.

23 MS. FAWCETT: So Part A, if any  
24 of you have been to our workshops, these



1 slides are going to look pretty familiar to  
2 you. So these are documentation of the parts  
3 of the regulations, of the proposed regs that  
4 we're proposing the changes to. I'm basically  
5 just going to read through these slides.

6 So first slide, throughout the  
7 regulations we have the wording that "within X  
8 date of the effective date of the Regulations"  
9 has been amended to reflect the actual  
10 calendar date of June 11th. Those are the  
11 original regs that were promulgated. We have  
12 to replace that date. And when we get the new  
13 effective date, that will be inserted into the  
14 final regulation.

15 There's been a lot of  
16 renumbering and a lot of changes in this part,  
17 a lot of references. In particular, Part A,  
18 Section 1.2.3 directs the reader to certain  
19 parts of the regulations than what is -- parts  
20 of the regs are applicable to your  
21 above-ground storage tanks.

22 So I'm not going to read through  
23 all this, but it does talk about the  
24 registration submittals, tank capacity, and



1 further delineates that in a table that we're  
2 going to talk about a few slides ahead.

3 Again, that was part of our changes.

4 Another thing that we address  
5 was best-management practices for ag, farm and  
6 ag tanks. Best-management practices options  
7 will be used in place of operating and  
8 maintenance requirements of the regulations.  
9 They must be submitted in writing and approved  
10 by the Department prior to actually using the  
11 BMP.

12 Continuing, Part A, 1.2.6,  
13 pre-approved BMPs are available on our  
14 website, and those ag ASTs with the BMP are  
15 subject only to Part A and E. Part E being  
16 the corrective action or remedial action part  
17 of the regulations if the tank experiences a  
18 release.

19 Ag tanks with best-management  
20 practices are not subject to our  
21 financial-responsibility requirements in  
22 Part D, and ag ASTs with a BMP are subject to  
23 registration fees, which we will talk about in  
24 a few more slides.



1           So the Part A starts with  
2 definitions, lots of definitions, and we had  
3 to modify these definitions sometimes based on  
4 our requirement to match our statute. We had  
5 statute definitional changes. So again, the  
6 regs have to reflect the statute. And then  
7 some of these definitions we wanted to just  
8 clarify for the regulated community.

9           So you modify the AST definition  
10 to clarify that ASTs that are permanently  
11 closed in place in accordance with the regs  
12 are no longer an AST and, thus, not subject to  
13 registration in B. Those are all part of the  
14 definitions.

15           The definition of AST was  
16 modified to add the following clarification:  
17 The AST includes all ancillary above-ground  
18 pipes and dispensing systems up to the first  
19 permanently installed point of isolation. So  
20 the words "permanently installed" were added.

21           Modified AST definition to  
22 clarify that exempted flow-through process  
23 ASTs do not include the following: A tank  
24 that stores fuel for combustion subsequently



1 used to provide heat for a process.

2 More on flow-through process  
3 tanks. Draft regulations changed regarding  
4 previous slide to move the bullet point to  
5 flow-through process tanks. So again, this is  
6 just aligning our paragraphs in that  
7 particular definitional part for the  
8 flow-through process tank.

9 We added "or a tank that stores  
10 fuel for combustion subsequently used to  
11 provide heat for our process."

12 Modify the definition of change  
13 in service. It now means any change to a  
14 registered AST to include, but not be limited  
15 to, and we removed "permanent change in nature  
16 of content," and then just left the wording:  
17 "Removal, Permanent Change in Contents,  
18 Relocation, Permanent Closure in Place, change  
19 in status from either In Service or Out of  
20 Service, conversion to storage of other than  
21 Regulated Substances or conversion to a use  
22 other than as an AST." And we added "or when  
23 the AST is emptied." And we have definitions  
24 for "emptied."



1                   Consumptive use: It is now --  
2 was modified. With respect to heating fuel,  
3 it means consumed on the premises where  
4 stored, used solely for the operation of  
5 equipment used for the generation of heat, and  
6 is connected directly or via a day tank to the  
7 heat-generating equipment.

8                   We added a definition of  
9 compartmentalized AST. So this is actually  
10 new. This was not in the draft. So we had  
11 comments to add this. So this is new in the  
12 proposed regulations. Means a single-walled,  
13 compartmentalized AST bearing one Underwriters  
14 Laboratory UL label, or a double-walled,  
15 compartmentalized AST sharing the same  
16 interstice. The compartmentalized AST is a  
17 single tank for the purposes of complying with  
18 all applicable requirements of these  
19 regulations.

20                   In other words, the total  
21 capacity of a compartmentalized AST is the sum  
22 of all the compartments' volumes.

23                   We added the definition of  
24 corrective action. Means the sequence of



1 actions or process that includes confirming a  
2 release, site assessment, interim remedial  
3 action, remedial action monitoring -- that's  
4 right, remedial action, monitoring, and  
5 termination of the remedial action. And this  
6 is addressed more in detail in Part E.

7 Added the definition of day.

8 Means a calendar day. However, when used to  
9 determine when a document is due or an action  
10 is required and the day falls on the weekend  
11 or a holiday, the document may be submitted or  
12 the action started on the first working day  
13 after the weekend or holiday.

14 So the definition of empty or  
15 emptying. Means to thoroughly clean the  
16 interior of the AST and all ancillary piping  
17 of all residual regulated substances,  
18 including, but not limited to, all sludge,  
19 solids, liquids, vapors, and gases.

20 We also added the definition of  
21 an external liner. It is a layer or membrane  
22 constructed of a material compatible with the  
23 contents of an AST and is installed inside an  
24 existing secondary containment structure to



1 provide additional assurance of  
2 impermeability.

3           The term "free product" will be  
4 deleted and replaced by the term "NAPL." That  
5 means non-aqueous-phase liquid composed of one  
6 or more organic compounds that are immiscible  
7 or sparingly soluble in water. The term  
8 encompasses all potential occurrences of a  
9 NAPL including free, mobile, and residual.  
10 This will be delineated and discussed more in  
11 detail in Part E.

12           Modified the definition of in  
13 service. Now, we had a change in the statute  
14 this year, so we have to align the definition  
15 in the regulations with the definition in the  
16 statute. So in service means an above-ground  
17 storage tank that, A, is being actively  
18 maintained or operated; B, contains a  
19 regulated substance or has a regulated  
20 substance regularly added to it or withdrawn  
21 from the tank; or C, is emptied solely for the  
22 purpose of cleaning, routine maintenance, or a  
23 change in product for a time period not to  
24 exceed 180 days.



1           There was a lot of discussion  
2 around this over the last year, and with a lot  
3 of input from industry, this is what we are  
4 now proposing in the regulations. That number  
5 180 had been -- was a different number over  
6 the last year and in the statute. So these  
7 things have changed now, and the statute and  
8 the regs are now in agreement.

9           Indicated release, we added the  
10 definition. Again, this is -- again, will be  
11 more addressed in Part E. Means there are  
12 signs that an AST or the secondary containment  
13 system are failing or could potentially fail  
14 to contain a regulated substance. Indicated  
15 releases are releases that are not observable  
16 and are not directly attributable to another  
17 source.

18           We added the definition of motor  
19 oil to clarify what tanks are exempted in  
20 Part A, 1.2.2.4. It means a petroleum product  
21 used to lubricate the internal parts of an  
22 engine. The term includes lubricating and  
23 operational fluids for the mechanical  
24 components associated with the engine. This



1 includes any hydraulic, transmission, gear or  
2 braking lubricating or operational fluid that,  
3 through the use, storage, or handling, has  
4 become unsuitable for its original purpose due  
5 to the presence of impurities or loss of  
6 original properties.

7 We modified the definition of  
8 non-commercial. It means a business or  
9 organization whose activities do not result in  
10 monetary gain, including, but not limited to,  
11 educational institutions, nonprofit  
12 organizations, and it is under the terms of  
13 the Internal Revenue Service code definition  
14 Section 501(c), state, federal, and local  
15 government entities, and religious  
16 organizations.

17 So we also had a statute change  
18 in October of 2014 while all these reg changes  
19 were going on for ASTs. So it modified the  
20 definition of owner, and we are now again in  
21 alignment with the statute from 2014. We  
22 added language to protect -- this is a  
23 condensed version of that language.

24 Added language to protect the



1 security interest of a person or entity that  
2 has only a financial interest in or has legal  
3 title to or manages an estate or trust for a  
4 property containing an AST or ASTs and does  
5 not operate or otherwise manage those ASTs.

6 In the case of foreclosure, a  
7 30-day notification to the Department is  
8 required for either in-service or  
9 out-of-service ASTs in order for a person or  
10 entity not to be considered the owner of the  
11 AST or ASTs.

12 Again, this is in alignment with  
13 statute, a change in the statute in 2016 to  
14 define out of service. An above-ground  
15 storage tank that designates -- that's  
16 designated as out of service by the owner or  
17 operator or an empty tank, except when the AST  
18 is emptied solely for the purpose of cleaning,  
19 routine maintenance, or change in product for  
20 a time period not to exceed 180 days. That  
21 should sound familiar because that was on the  
22 other slide defining in service. So that's  
23 now in the proposed regulations which was not  
24 in the draft.



1           Permanent change in contents has  
2 been modified to read: "Means the replacement  
3 of one substance stored in an AST and  
4 Ancillary Piping for another substance that  
5 would effect a change in the AST and Ancillary  
6 Piping's regulated status based on capacity  
7 and substance stored." Because that's how we  
8 define whether or not it's included as an AST  
9 in the regs based on size, based on contents.

10           Pipe is now including vapor  
11 recovery piping.

12           We added a definition for  
13 remedial action, which, again, will be covered  
14 in more detail in Part E. It means activities  
15 conducted to protect human health, safety, and  
16 the environment. These activities include,  
17 but are not limited to, evaluating risks,  
18 making no further action determinations,  
19 monitoring institutional and engineering  
20 controls, and designing and operating cleanup  
21 equipment.

22           This is another definition  
23 that's going to be explained in more detail in  
24 Part E. The definition of site assessment was



1 added. This means to measure for the presence  
2 of a release or contamination is most likely  
3 to be present at an AST site. Selection of  
4 sample pipes, sample locations, measurement  
5 methods shall be based on the nature of the  
6 substance stored, type of backfill, the depth  
7 to groundwater, and other factors appropriate  
8 for identifying the presence of a release.  
9 The site assessment is not restricted to the  
10 property containing the AST system. So it  
11 could be beyond the boundaries.

12 That ends the definitional  
13 changes in the proposed regs. So there are  
14 additional sections in Part A.

15 We have references to standards  
16 and -- industry standards, reference standards  
17 throughout the regulations. So what we are  
18 doing now is we're actually going to specify a  
19 date, a particular date, and we're going to  
20 put that date of the standard, the name of the  
21 standard identifying the version that we're  
22 going to adopt in the regulations.

23 So that has to be changed  
24 throughout the entire reg. And ANSI is now



1 known as ASME. So that had to be modified in  
2 the regulations.

3 Part A, Section 4.1.8, each new  
4 registration or change in substance stored  
5 must have a safety data sheet attached.

6 Safety data sheets are defined in OSHA 29 CFR  
7 1910.1200.

8 We had comments over the last  
9 year about giving relief to the heating fuel,  
10 diesel, kerosene, and gasoline tanks and not  
11 to have to provide safety data sheets. So  
12 there is an exemption now, and that is new in  
13 these regs, in the proposed regs, as opposed  
14 to the draft regs. We added that due to  
15 comment.

16 Part A, Section 4.1.9, ASTs that  
17 are not subject to annual registration fees,  
18 as are specified in Part A, Section 4.5, are  
19 not required to have their registrations  
20 renewed on an annual basis by the submittal of  
21 any documentation. The AST registration  
22 remains in effect until the Department is  
23 notified of the AST removal, permanent  
24 closure, change in contents, or transfer of



1 ownership.

2 So that is a clarification that  
3 was not evident in the previous -- in the  
4 current regs.

5 Part A, Section 4.3, we added  
6 permanent closure in place and emptying in the  
7 change-in-service notification. Again, it's a  
8 wording clarification here. Any change in the  
9 schedule of work for a change in service must  
10 be communicated to the Department in writing a  
11 minimum of 48 hours prior to the new scheduled  
12 date of work. Owner shall notify the  
13 Department in writing of the actual date of  
14 completion of any change in service.

15 Ownership transfer,  
16 Section 4.4.1 and 4.4.3. New owner must  
17 submit a completed registration form, all  
18 safety data sheets, and proof of financial  
19 responsibility to the Department so the  
20 Department receives forms no later than  
21 72 hours after the ownership transfer takes  
22 place.

23 I know we had some erroneous  
24 references to transfer-of-ownership form in



1 those sections, and they're being deleted.

2 So in Section 4.5.3 we did not  
3 have a table, and we are now inserting a table  
4 for clarity, and so it reads as the statute.

5 So if you have a regulated substance other  
6 than diesel, heating fuel, or kerosene, and  
7 your tank is greater than or equal to 12,499  
8 gallons, but less than 40,000 gallons, your  
9 annual fee is \$300. If it's greater than or  
10 equal to 40,000 gallons, no matter what the  
11 regulated substance, it's \$750.

12 The amounts haven't changed.  
13 It's just that we tried to better describe  
14 this using a table as opposed to a couple  
15 lines in the regulations.

16 And then ditto for the ag and  
17 farm ASTs as far as the size, and then  
18 whatever the contents are, as long as they're  
19 ag and farm tanks, that's the fee structure.

20 Again, bottom line, fees haven't  
21 changed. Just adding clarity to define fees  
22 based on content and capacity.

23 Registration fees for new ASTs.  
24 The initial AST registration fee shall not be



1 assessed until the calendar year following the  
2 year in which the AST installation is  
3 completed. So if it's completed in 2017, you  
4 will be billed in 2018. Taking into account  
5 the length of time it takes to erect the ASTs.

6           Retrofit/upgrade notification.  
7 This is clarification. The Department must  
8 receive notification for all retrofits or  
9 upgrades at least 10 days prior to starting  
10 work. That was changed back to 10. It was  
11 30 in the draft regulations. We're now back  
12 to 10 due to comment and feedback.

13           Work may proceed once written  
14 approval from the Department has been  
15 received. Approval will expire one year after  
16 the Department issues approval if the work has  
17 not commenced.

18           Now, this is new to the proposed  
19 regulations. The Department shall issue a  
20 formal letter of approval or denial within  
21 10 days of the Department's receipt of the  
22 retrofit or upgrade notification. If the  
23 owner does not receive written notification  
24 from the Department within 10 days, the owner



1 may commence tank operations, provided that,  
2 and two caveats. The owner notifies the  
3 Department in writing of the date the retrofit  
4 or upgrade construction work will commence,  
5 and the owner shall recognize that any actions  
6 taken without prior approval is at the risk of  
7 the owner and does not absolve the owner of  
8 the obligation to comply with all applicable  
9 requirements of the regulations.

10 Again, added this verbiage,  
11 addressing comments and feedback that we had  
12 in the last six months, six to eight months.

13 Alternative procedure approval.  
14 Added Department's written response shall  
15 state justification for denial, approval, or  
16 approval with conditions of the request.  
17 That, again, based on comments that we had  
18 earlier this year.

19 Part A, 6.1.1.3, added  
20 Department's authority to document the site  
21 assessment, inspection, or monitoring with  
22 photographs.

23 Clarification on labeling,  
24 Section 9, clarify labeling requirements based



1 on the substance stored and the tank capacity  
2 including diesel, heating fuel, kerosene for  
3 the following. This is what has to be done.  
4 Follow NFPA 704 standard, for empty ASTs, and  
5 including the name of tank contents and tank  
6 ID number as registered.

7 So it wasn't clear if diesel,  
8 heating fuel, and kerosene was included or not  
9 included and now we have gone through and  
10 clarified that in the proposed regs.

11 All ASTs installed or brought  
12 into service after February 1st, 2006, that  
13 are required to have a label in accordance  
14 with the requirements of Part A, 9.1, 2, or 3,  
15 shall be appropriately labeled before any  
16 regulated substance is stored in the AST.

17 Permanently closed ASTs shall be  
18 labeled with the words "permanently closed"  
19 and date of permanent closure within 30 days  
20 of the closure date. Or for ASTs that were  
21 permanently closed prior to the most recent  
22 effective date of the regs, labels must be  
23 affixed within 90 days of the most recent  
24 effective date.



1                   Again, it's existing versus  
2                   future tanks and what the requirements are.

3                   That's it for my part, and now  
4                   we have Part B. Turn it over to Mike Moyer.

5                   MR. MOYER: Good evening. I'm  
6                   Mike Moyer. I'm an engineer with the Tank  
7                   Division. I'll be going over the summary of  
8                   the changes to Part B.

9                   These are some of the technical  
10                  changes that we made to the regs. Of course,  
11                  on the top of the blue bar will be sort of the  
12                  title of what we're going over and then the  
13                  section part and summary. Or the section.

14                  So Part B, with regard to new  
15                  installations, we clarified the information  
16                  that's required to be submitted with notice  
17                  for a new AST or relocated AST. That  
18                  information was scattered throughout Part B.  
19                  We condensed it into one section to make it  
20                  clearer.

21                  Added a requirement that all  
22                  ASTs and equipment must be compatible with the  
23                  substance stored. This is a requirement  
24                  consistent with the USG regulations.



1                   This is an addition that aligns  
2 us with the Division of Water regulations that  
3 new ASTs must be installed no less than a  
4 150-foot radius from a public or industrial  
5 well unless you get approval from the  
6 Department.

7                   Similarly, again, to align with  
8 Division of Water Resources, a new AST must be  
9 installed no less than a hundred-foot radius  
10 from a domestic well unless approved by the  
11 Department.

12                   This is a similar change that we  
13 made based on comments that we received during  
14 the draft regulation that owner shall notify  
15 the Department within 10 days of final  
16 completion of installation, and the Department  
17 will complete an installation within 15 days  
18 and issue a letter within 10 days from that.  
19 If the owner does not receive notification,  
20 the owner may commence tank operation,  
21 provided that, again, similar to in Part A,  
22 the owner notifies the Department and  
23 recognizes that any action without approval  
24 does not absolve the owner of obligations to



1 comply with the regulations.

2                   We made a modification to the  
3 fee table. We didn't change any of the fees.  
4 It was an attempt to make it clear as to the  
5 construction fees associated with the size of  
6 the tank and the contents. So there's no  
7 changes in the fees. It's just an attempt to  
8 make the fee structure clearer.

9                   This is a change requirement  
10 that all metallic field-constructed ASTs are  
11 to be inspected and tested in accordance with  
12 the construction design standard utilized for  
13 the construction instead of just ubiquitously  
14 assuming it's API 650. There are other  
15 standards that could be applicable for the  
16 inspection.

17                   We changed some terminology for  
18 cathodic protection. This change propagates  
19 throughout parts B and C, applicable sections  
20 with cathodic protection. We changed some  
21 terminology from "levels" to current NACE  
22 certification titles to be consistent with the  
23 current NACE terminology.

24                   Sticking with cathodic



1 protection, this is a change that cathodic  
2 protection systems shall be installed at the  
3 time of installation of the new AST and will  
4 be operational prior to the AST being placed  
5 into service or another schedule is approved  
6 by the Department.

7           And here we have testing is to  
8 be done in accordance with Part C, Section 5  
9 where there's some details about that cathodic  
10 protection testing. And there was some  
11 references to repair which were deleted since  
12 they appear in that Part C, Section 5.

13           Design and construction of  
14 secondary containment and spill containment.  
15 This is for transfer areas. And some of this  
16 was existing and was combined together in  
17 order to make it in one section a little bit  
18 easier to follow. So transfer areas from an  
19 AST to vehicles must have spill containment  
20 capable of containing 110 percent of the  
21 volume of the largest compartment of the  
22 largest vehicle.

23           So again, this is a restatement  
24 of what was previously Part B, Section 8.1.5,



1 with the addition is that 110 percent -- we  
2 have added a specific requirement of  
3 110 percent rather than "capable of containing  
4 and collecting spills and overfills." It's  
5 more specific than previous.

6 Requirements for secondary  
7 containment liners. We changed "lining  
8 materials" to "external liners." This also  
9 applies to Part B, Section 7.2.5.2. So now  
10 it's consistent throughout the regs.

11 Overfill equipment must be  
12 installed on all new ASTs. This is in  
13 addition from the previous regs.

14 Installation requirement for  
15 overfill equipment must be installed on all  
16 reactivated ASTs so they meet the new tank  
17 standards. This was added to provide clarity.

18 This is an amendment for added  
19 leak detection methods shall be separate from  
20 the methods used to comply with requirements  
21 for overfill protection in Part B, Section 8.

22 I think the previous language  
23 was that they had to be independent of each  
24 other. This is somewhat clearer.



1           We added STI SP031 to the repair  
2 requirements. The standard was not written at  
3 the time of our previous regulation. So it's  
4 now applicable.

5           We added the term -- we  
6 clarified the term "applicable internal liner"  
7 which is the one approved by the Department in  
8 these sections of the regs, 11.1.5 and 11.1.6.

9           This is another addition similar  
10 to the one I started off with. This is also  
11 for existing ASTs. So within one year of the  
12 most recent effective date of these  
13 regulations, all ASTs, piping, appurtenances,  
14 and secondary containments shall be compatible  
15 with the regulated substance stored in the  
16 AST. So this is for existing ASTs have to be  
17 compatible with the substance stored.

18           We changed notification for  
19 upgrade requirements for AST from a  
20 non-regulated to a regulated AST from 10 days  
21 to 60 days.

22           We got a couple here that are  
23 related to that statutory change that Barb  
24 mentioned earlier. For out-of-service



1 requirements, added that a tank emptied solely  
2 for the purpose of cleaning, routine  
3 maintenance, or change in product for less  
4 than 180 days is not out of service.

5           Again, this is another one  
6 associated with that statutory change that  
7 became effective in 2016 for out-of-service  
8 requirements. Deleted that a tank is out of  
9 service if it has not had a regulated  
10 substance transferred into it or withdrawn  
11 from the AST and has been drained of all  
12 contents and is empty.

13           Part B, 13.1.3, clarifies  
14 wording for activities that must take place  
15 when an AST is taken out of service for  
16 greater than 18 months.

17           13.1.5 now includes requirements  
18 that an out-of-service AST that is not empty  
19 must be in compliance with the applicable AST  
20 regulations.

21           13.1.5 now includes requirements  
22 that an out-of-service AST that is empty and  
23 is not required to perform -- excuse me,  
24 includes requirement that an out-of-service



1 AST that is empty is not required to perform  
2 any inspection, monitoring, and testing while  
3 the AST is empty and out of service. This is  
4 formerly Part B, 13.1.3.

5 13.1.7, an AST that is out of  
6 service, empty, and had a site assessment  
7 performed is considered to be permanently  
8 closed. And we had some renumbering here, so  
9 this was formerly Part B, Section 13.1.5.

10 ASTs that are used periodically  
11 for seasonal use are not out of service even  
12 when the tank is not storing regulated  
13 substance. That's another change of out of  
14 service.

15 Empty, out-of-service ASTs must  
16 be tested and inspected per the requirements  
17 in Part C prior to being placed back in  
18 service.

19 An AST which was out of service  
20 prior to 6/11/04 must now comply with all new  
21 AST standards in these regulations prior to  
22 being placed back in service.

23 We deleted the terms from  
24 Part B, 14.1.1. Deleted the terms "removal,"



1 "relocation" and "closure in place" as these  
2 are all considered a change in service.

3 There's some clarification in  
4 Part B, 14.2, that a site assessment must be  
5 performed after any change in service or when  
6 soil is excavated during retrofit, upgrade,  
7 repair, or maintenance.

8 Again, Part B, 14.2.2.4, site  
9 assessments shall be performed in accordance  
10 with AST site assessment guidance or other  
11 approved procedure.

12 And samples must be submitted to  
13 a lab that is certified to perform the  
14 required analysis. This was amended for some  
15 clarity.

16 This is a new section. Analytes  
17 must be selected based upon all regulated  
18 substances that were stored in the tank over  
19 its lifetime, and lab methods must be approved  
20 by the DNREC-TMS, the Department.

21 14.2.5, samples must be obtained  
22 from locations with the highest suspected  
23 concentration of chemicals of concern.

24 We have another new section. A



1 site assessment cannot be performed without  
2 prior written approval from the Department.  
3 That's 14.2.6.

4 And the site assessment due date  
5 was changed from 30 days to 90 days.

6 And then about reactivating a  
7 permanently closed AST, Part B, 16.3. Upon  
8 returning to service an AST that has been  
9 permanently closed, the owner shall notify the  
10 Department on a form provided in accordance  
11 with Part B prior to putting the tank back in  
12 service, meet all new tank standards prior to  
13 putting the tank back in service, and pay a  
14 required one-time construction fee and the  
15 annual registration fee.

16 Thank you.

17 MR. RITTBERG: Kim Gould will be  
18 going over Part C of the regulations.

19 MS. GOULD: Good evening. I'll  
20 be covering Part C, which is the inspection,  
21 monitoring, testing, and recordkeeping  
22 requirements for ASTs.

23 For those of you that have been  
24 attending our public workshops, these slides



1 should be very familiar, with the exception of  
2 one or two.

3 Slide 1, measuring gauges,  
4 Part C, 1.1.1.1, this section was amended to  
5 specify that measuring gauges must be capable  
6 of measuring over the entire operating range  
7 of the AST as opposed to the full range of the  
8 AST. Not a new slide.

9 Measuring gauges, Part C, 3.1.5  
10 and 3.1.6. Measuring gauges must be  
11 calibrated, tested, operated, and maintained  
12 per the manufacturer's specifications. All  
13 manufacturer's instructions and performance  
14 claims must be retained at the facility for  
15 the life of the gauge. This is not a new  
16 slide.

17 Measuring gauges, Part C, 3.1.7.  
18 If the manufacturer of the measuring gauge  
19 cannot be determined, or if no standard is  
20 available, it must be calibrated to 1 percent  
21 of the AST's volume.

22 Overfill protection, Part C,  
23 Section 3.1.8 and 3.1.9. Overfill protection  
24 systems must be calibrated, tested, operated,



1 and maintained per the manufacturer's  
2 specifications. All manufacturer's  
3 instructions and performance claims must be  
4 retained at the facility for the life of the  
5 overfill equipment.

6           Underground piping inspection  
7 and testing, Part C, Section 4.1.2. This  
8 section was amended to clarify that existing  
9 underground piping not in compliance with an  
10 API 570 inspection and testing schedule must  
11 be pressure tested in accordance with API 570,  
12 manufacturer's specifications, or as approved  
13 by the Department until upgraded.

14           Cathodic protection inspection  
15 and testing, Part C, Section 5.2. This was  
16 amended to require that impressed current  
17 cathodic protection rectifier must be  
18 monitored at least once every 31 days and the  
19 results recorded.

20           Internal inspection standards,  
21 Part C, 6.4.6. This requirement was  
22 deleted -- deleted requirement that  
23 alternative internal inspection methods be  
24 limited to a maximum of 20-year intervals.



1 And this section was changed, amended,  
2 proposed amended pursuant to some comments we  
3 got at our public workshops.

4 Internal inspection standards,  
5 Part C, 6.1, 7.1, and 8.1. Amended to specify  
6 that, where multiple inspection standards  
7 could apply, only one standard shall be  
8 applied.

9 Internal inspection reports,  
10 Part C, 6.4, 7.4, and 8.1, and we added  
11 specific requirements for internal inspection  
12 reports.

13 That's it.

14 MR. FAWCETT: This is Part D.  
15 That address financial responsibility, and  
16 there are going to be some things on here that  
17 are new. New to the presentation but not new  
18 to the proposed regs.

19 So for clarification in Part D,  
20 Section 2.1.5, 6 and 16.1.3, owner and  
21 operator shall submit current and valid  
22 financial responsibility documentation to the  
23 Department within 30 days of confirmation of a  
24 release from an AST. No regulated substance



1 may be placed in an AST without current and  
2 valid financial responsibility in place. And  
3 owner/operator shall notify the Department of  
4 a change from one financial-responsibility  
5 mechanism to another mechanism within 10 days.

6 Part D, Section 17.1.2 and  
7 17.1.3. If an insurer cancels or fails to  
8 renew an AST insurance policy, owner/operator  
9 shall submit proof of alternative financial-  
10 responsibility mechanism to the Department  
11 within 60 days after receiving notice from  
12 their insurer. If the owner/operator fails to  
13 obtain alternative coverage, they shall notify  
14 the Department within 10 days and submit  
15 proper documentation.

16 So continuing in this particular  
17 part -- Part D, section of Part D, 17.1.4, and  
18 also on forms C and D, item (2)(g). If an  
19 insurer cancels or fails to renew an AST  
20 insurance policy, the insurer shall notify the  
21 Department within 15 days and submit proper  
22 documentation.

23 So in other words, we're getting  
24 notification from both the insured and the



1 insurer.

2 Failure to notify will not  
3 invalidate the action that they took to  
4 terminate coverage. But we are asking to be  
5 notified.

6 Amendments to Part D,  
7 Section 19.1.2. When insurance, that's the  
8 type of mechanism, is the financial-  
9 responsibility mechanism, it may be cancelled  
10 after a claim has been submitted. This is  
11 when it has to do with releases. For all  
12 other financial-responsibility mechanisms  
13 other than insurance, they may be cancelled  
14 only after corrective action is completed in  
15 accordance with Part E.

16 So this is when you don't need  
17 the financial responsibility anymore.

18 We added this in Part D, Form H,  
19 added to standby trust agreement, we have a  
20 Section 19 as designated signers requires a  
21 list of the persons designated by the grantor  
22 to sign orders, requests, and instructions to  
23 the trustee. And the list shall be attached  
24 to the trust agreement.



1 Overall, in all these forms,  
2 each financial-responsibility mechanism form  
3 contains a table now for inclusion of the tank  
4 information. Therefore, the requirement to  
5 provide a separate tank schedule has been  
6 deleted. But again, it's going to be included  
7 in each form, or ask that you include it in  
8 each form.

9 Variety of things in the forms  
10 in financial responsibility, Part D. We had  
11 many formatting changes, a lot of renumbering,  
12 we had corrections to typographical errors and  
13 omissions, we changed wording for consistency,  
14 and especially the term "financial assurance"  
15 was changed to "financial responsibility." We  
16 corrected a lot of references, and we  
17 clarified who the signers were, the designated  
18 signers.

19 MR. RITTBERG: Now Lori Spagnolo  
20 will discuss the changes to Part E.

21 MS. SPAGNOLO: Thanks to those  
22 of you who have been involved in the process  
23 so far.

24 For Part E, what we essentially



1 tried to do here was compile some of the  
2 requirements that were previously in Part B  
3 and put them all in one section for corrective  
4 action.

5 Also, we clarified some of the  
6 reporting requirements, and we also reflected  
7 really some of the new science and technology  
8 that we use to delineate the plume and what we  
9 need for corrective action.

10 These are the old terms:  
11 "Corrective action," "investigation," "free  
12 product," and "suspected." And "remedial  
13 action" is kind of the term of art, so to  
14 speak, I guess now. "Hydrogeologic  
15 investigation" just clarifies it. "Free  
16 product" has been switched to "non-aqueous  
17 phase liquid," or NAPL. And "suspected" has  
18 been changed to "indicated." That just adds  
19 more objectivity because we outline what that  
20 means.

21 Section 1.1 explains the  
22 requirements for leaks inside secondary  
23 containments. So essentially what you need to  
24 do is notify us within seven days, TMS



1 department, not the hotline; maintain  
2 documentation for the life of the AST; and fix  
3 anything that needs to be fixed in order to  
4 prevent recurrence and mitigate any issues  
5 within 30 days.

6 Section 2 differentiates the  
7 requirements between reporting for indicated  
8 releases and what we call confirmed releases I  
9 suppose. Indicated releases, as Barb  
10 mentioned again, are signs that an AST or  
11 secondary containment are failing or could  
12 fail. The key is that they're not observable,  
13 as we thought happened, and they're not  
14 directly attributable to another source.

15 Indicated releases must be  
16 reported to the Department within 48 hours.  
17 They do not need to be called in to the  
18 hotline.

19 In terms of investigation, what  
20 we would require anybody to do is initiate an  
21 investigation within 24 hours. Obviously that  
22 could include inspections and testing of any  
23 equipment to see if there was a malfunction,  
24 and if that doesn't yield any results, then



1 would move to measuring for presence of a  
2 release.

3 Now, confirmed releases in  
4 excess of the reportable quantity, the RQ,  
5 needs to be reported within 24 hours and also  
6 called in to the release hotline.

7 If it's less than the reportable  
8 quantity, it needs to be documented on an  
9 inspection report and only called in to the  
10 Department if cleanup activities cannot begin  
11 within 24 hours or be completed within seven  
12 days.

13 Section 4 really has three  
14 parts. It asserts our authority to assume  
15 control of a release or indicated release. We  
16 should add that this is only in the event that  
17 the responsible party isn't taking prompt and  
18 appropriate action. And it would follow all  
19 our typical notification procedures.

20 It defines initial release  
21 response requirements that include, again,  
22 fixing any faulty components and then begin  
23 remedial action if there's any NAPL present.  
24 And we also have added NAPL corrective action



1 requirements.

2           The current requirements point  
3 to the removal of free product to the maximum  
4 extent practicable. And the proposed changes  
5 really speak to a more thorough approach. The  
6 requirements specifically for a conceptual  
7 site model again to more fully and effectively  
8 delineate the contamination.

9           The conceptual site model should  
10 be communicated within 48 hours of the NAPL  
11 release and then obviously updated as the  
12 project continues.

13           We have taken out the  
14 requirement for the submittal of an  
15 investigation work plan for our approval.  
16 However, the final report that's submitted  
17 does need now to be signed by Delaware  
18 licensed professional geologist or engineer.  
19 And this replaces the current Section 1.

20           The administrative option for  
21 remedial action replaces the current Section 2  
22 and essentially states that initiating  
23 remedial action prior to approval from the  
24 Department does not absolve the owner/operator



1 of any obligation to comply with Section 7,  
2 which is the remedial action work plan  
3 requirement. Replaces current Section 3. It  
4 adds the requirement for post-remedial  
5 monitoring. Typically that's four quarters.

6 Proposed Section 8 replaces  
7 current 3.6. It expands on the Department's  
8 response to a no-further-action request.  
9 Simply outlines that procedure more clearly.

10 That's it for me.

11 MR. RITTBERG: That's a lot of  
12 changes that were discussed, and it's been a  
13 journey, over two years in the making to get  
14 to this point. You heard throughout the  
15 presentation that there are new things added  
16 and changes made throughout the process and  
17 there were several drafts of this document  
18 that went through -- we have two iterations of  
19 the public workshop and changes were made.  
20 And then those changes were placed into one  
21 final version submitted to our state  
22 register's office and published in the state  
23 register on November 1st.

24 Unfortunately, when we reviewed



1 what was advertised or posted in the state  
2 register, we found some errors along the way.  
3 I just wanted to highlight some of those,  
4 because they're things we want to fix before  
5 these regulations become final.

6           The first, what is in Part A,  
7 Section 1.2.3.1, and that relates to the  
8 section that says, "for smaller tanks what are  
9 the requirements for those smaller tanks." We  
10 want to get those thresholds amounts right.  
11 And in the version that's currently on the  
12 website for proposed, it has that term "or  
13 equal to 12,499 gallons." That needs to be  
14 stricken. It's tanks that are greater than  
15 250 gallons and less than 12,499 gallons.  
16 That's for the smaller diesel, kerosene, or  
17 heating-fuel tanks.

18           Similarly, for tanks that store  
19 diesel, kerosene, or heating fuel with a  
20 capacity greater than 250 gallons and less  
21 than it should be 40,000 gallons, not less  
22 than or equal to 39,999. Again, this defines  
23 that smaller universe of tanks that are not  
24 subject to the full set of regulations. We



1 just want to get those threshold amounts right  
2 because it's important. You saw them earlier  
3 the corrected ones used in the fee tables for  
4 the registration fees, as well as the  
5 construction fees.

6 You heard mention that we wanted  
7 to strike the definition of free product.  
8 However, in the proposed regulations that  
9 version is not struck out. So we want to  
10 correct that and strike out the definition of  
11 free product.

12 Also, you heard mention that the  
13 ANSI organization is now ASME. So that no  
14 longer needs to be listed as a referenced  
15 standard organization. We want to strike that  
16 out.

17 In this section, Part A, 3.2.1,  
18 the sentence in black there just ends. The  
19 red underline isn't currently in the proposed  
20 regulation, so we just need to add the phrase  
21 to complete the sentence so it makes sense.

22 There's a reference standard  
23 listed, NFPA 303(a), Automotive and Marine  
24 Service Station Code, 2011 edition, and that's



1 listed as a reference standard in Part A,  
2 3.4.2. That document doesn't exist. Instead,  
3 we want to reference NFPA 303 Fire Protection  
4 Standard For Marinas and Boat Yards, 2016  
5 edition.

6 Again, this is a similar change  
7 where we found that the last phrase that's  
8 specified the specific part of the National  
9 Board Inspection Code Part 3, Repairs and  
10 Alterations, was not included and didn't make  
11 it into the proposed regulation. So we want  
12 to add what you see that's red and underlined.

13 Same here. In Part A, 4.5.2,  
14 the phrase "of each calendar year" was not  
15 included in the proposed regulation that's  
16 available on the Web. So registration fee not  
17 received by the Department by October 1, 2002,  
18 or by February 1st, and it should read "of  
19 each calendar year thereafter is subject to a  
20 late charge of 10% of the total fee."

21 I didn't hear a lot of rejoicing  
22 on the proposed reg, but the fee table was  
23 omitted. So we wanted to certainly add the  
24 correct fee table included in the proposed



1 regulations.

2           This change relates to signage  
3 for tanks other than diesel, heating fuel, and  
4 kerosene which was left out. We want to add  
5 kerosene on this list.

6           And Mike mentioned the  
7 construction fee table. Again, we wanted to  
8 make sure those threshold amounts for when the  
9 different fees apply are correct. So the  
10 table that's in the currently proposed  
11 regulations needs to be modified because  
12 there's that less than or equal to 39,999  
13 gallons is used in that table instead of less  
14 than 40,000 gallons.

15           In Part B we found some errors  
16 as well. It didn't make sense there. Part B,  
17 16.1.3, there's a hanging phrase "the or  
18 Part B section." That's all that's there when  
19 you go to Part B, 16.1.3. The sentence we  
20 wanted to include was "The AST owner or  
21 operator shall comply with the requirements of  
22 Part B, Section 14."

23           And something similar happened  
24 with Part B, section 17.1.3, when our document



1 was converted.

2 As Barb mentioned, the Part D  
3 financial responsibility forms, we changed a  
4 lot of formatting, but we found in the  
5 proposed regulations, as we went from  
6 appendices to forms, that there's formatting  
7 errors within what was presented in the  
8 proposed regulations on several of the forms.  
9 So there's incorrect of alignment of tables  
10 and columns, signature lines were missing, and  
11 check boxes for yes and no on some of those  
12 forms are missing as well. We wanted to get  
13 that fixed.

14 That's it for our presentation.

15 THE HEARING OFFICER: Do you  
16 want to go ahead and do the exhibits?

17 MR. RITTBERG: Sure. I'll now  
18 read a list of exhibits we're entering into  
19 the public record.

20 The first is the list of  
21 exhibits themselves. There are 27 exhibits  
22 that we're entering.

23 The second is the PowerPoint  
24 presentation from tonight's public hearing.



1           The third exhibit is the final  
2 proposed regulation, the authenticated copy  
3 that was published in the November 1st, 2016,  
4 register.

5           The fourth exhibit is the  
6 proposed amendments, summary spreadsheet of  
7 changes. As we went through the process, we  
8 kept track of all the things we changed in the  
9 spreadsheet to make it easy for people to look  
10 up and just note what the changes are, in  
11 addition to seeing the changes in underline  
12 and strike-out.

13           Exhibit 5 is the list of updates  
14 or errors that we found in the proposed  
15 regulations, and there's a table for each part  
16 that just lists what errors need to be  
17 corrected from what was published.

18           Exhibit 6 is a notification of  
19 the public hearing, as well as the workshop  
20 attendees, email distribution list that were  
21 used in the example email to advertise and get  
22 the word out about tonight's public hearing.

23           Exhibit 7 is the public hearing  
24 notice that was advertised in the newspapers.



1 This year both the State News and the  
2 Wilmington News Journal.

3 Exhibit 8 is the statewide  
4 calendar notice advertising tonight's  
5 December 6, 2016, public hearing.

6 Exhibit 9 is the fact sheet that  
7 was developed over the summer and is available  
8 on our web page.

9 Exhibit 10 is the start action  
10 notice that was reissued in September of 2016.  
11 When we amended the above-ground storage tank  
12 law, we were asked to amend the start action  
13 notice and develop a new schedule to lead to  
14 the promulgation of these regulations.

15 Exhibit 11 is the legislation  
16 SB 233 that is date stamped July 13th, 2016,  
17 noting the date that it was signed by the  
18 governor.

19 Exhibit 12 are comments received  
20 from the public workshops. There's various  
21 emails from people, including Mr. Mark Baker  
22 who provided us comments on the draft  
23 regulations several times, including a set of  
24 comments that he sent me today via email, and



1 those comments are being entered into the  
2 public record.

3 Exhibit 13 are the sign-in  
4 sheets and presentations from those June 22nd  
5 and 29th, 2016, public workshops.

6 Exhibit 14 are those public  
7 workshops, the notice that went into the state  
8 calendar advertising those workshops.

9 Exhibit 15 are the public  
10 workshop notices that were in the newspaper.

11 Exhibit 16 are the mailing lists  
12 that were used to get the word out about those  
13 workshops and examples of the letters that  
14 were sent.

15 Exhibit 17 is an explanation of  
16 Part E and how it changed from our past  
17 requirements to the ones listed in the  
18 proposed regulations.

19 Exhibit 18 are notes and sign-in  
20 sheets related to a stakeholder meeting that  
21 was held October 5th, 2015.

22 Exhibit 19 are comments received  
23 from workshops conducted in March of 2015. As  
24 I mentioned, there were two rounds of public



1 workshops leading to this hearing.

2 Exhibit 20 are notes and sign-in  
3 sheets from a stakeholder meeting that was  
4 conducted on March 18th, 2015.

5 Exhibit 21 were the sign-in  
6 sheets and presentations from the March 10th  
7 and March 17th public workshops. There was  
8 also a March 12, 2015, public hearing in the  
9 R&R Building in Dover, but, unfortunately, no  
10 one attended that workshop.

11 Exhibit 22 are the March 10th,  
12 12th, 17th of 2015 public workshops and the  
13 statewide notice that went into the statewide  
14 calendar.

15 Exhibit 23 are the notices in  
16 the newspaper for those 2015 public workshops.

17 Exhibit 24 is the workshop  
18 notification and request for comment letters  
19 that were sent to stakeholders, including the  
20 AST owners and operators, announcing those  
21 March 2015 workshops.

22 Exhibit 25 is a document called  
23 the draft regulations dated 2015. And we're  
24 also providing a link to those documents, and



1 they're located on the Tank Management  
2 website.

3           Exhibit 26 is an invitation  
4 letter that went out to form an AST technical  
5 advisory committee back in February 2014.  
6 Then the Department changed its position and  
7 wanted to have a more public, open process so  
8 the public would have an opportunity to  
9 participate, and we went to holding workshops  
10 instead of working with an advisory committee.  
11 But the letter sent to the advisory committee,  
12 potential advisory committee members, is  
13 included as an exhibit.

14           And the last exhibit is the  
15 start action notice which announced the  
16 rule-making and gave the initial schedule, and  
17 that is dated 2013.

18           So actually it's about three  
19 years in the making we have been working on  
20 these regulations, and we appreciate the input  
21 and the thoughtful comments we have received  
22 that have led to the version that we're  
23 currently proposing to adopt.

24           THE HEARING OFFICER: Thank you,



1 Alex.

2 And thank you everyone involved  
3 with putting that presentation together. It's  
4 certainly a lot of things that are changing.  
5 So I appreciate you vetting all of that.

6 Let the record reflect that  
7 Exhibit 1 through 27 as identified by the  
8 Department just now are hereby entered into  
9 the formal hearing record concerning this  
10 matter.

11 Is there anything further the  
12 Department wishes to add before we proceed to  
13 comment?

14 MR. RITTBERG: No.

15 THE HEARING OFFICER: That being  
16 said, and I appreciate everybody's patience,  
17 that was kind of long, but necessary, there's  
18 no indication on the sign-up sheet that was  
19 used whether you guys wish to offer comment.  
20 So I'm just going to go down in the order that  
21 you signed in.

22 Diane Turner from DuPont?

23 MS. TURNER: I am going to make  
24 some comments.



1                   THE HEARING OFFICER: Thank you.  
2 I appreciate that. I should say that the  
3 record is definitely not going to close  
4 tonight. It's open for the next 15 days  
5 subsequent to tonight's proceedings. So any  
6 comment that's offered, whether it's offered  
7 tonight in front of the court reporter here  
8 live or whether it's received either by mail  
9 or email to the Department, as long as it  
10 comes in on or before the 21st of December, it  
11 all bears the same weight at this juncture of  
12 this promulgation.

13                   You're not speaking tonight;  
14 you're just going to submit later.

15                   Steve Cahill?

16                   MR. CAHILL: No comments at this  
17 time.

18                   THE HEARING OFFICER: Michael  
19 Hayes?

20                   MR. HAYES: Yes. I have no  
21 comments at this point.

22                   THE HEARING OFFICER: Is there  
23 anyone here, other than those three people,  
24 that wish to add anything for the record?



1 (No response.)

2 THE HEARING OFFICER: Well, that  
3 being said, I appreciate everybody's patience  
4 again going through all of those PowerPoints  
5 and that presentation. The record will remain  
6 open at this point for the next 15 days and  
7 any comment that wishes to be given for the  
8 Department's consideration should come in on  
9 or before December 21st, 2016. At that  
10 juncture, the record is going to close just  
11 for comment.

12 The Department's then going to  
13 sort through what we have as far as additional  
14 comment that has come in and there will  
15 probably be a press release at that point to  
16 talk about whether the record will be  
17 reopening for comment at that point. So stay  
18 tuned is what I should say.

19 There being no additional  
20 comments to be offered by either the  
21 Department or those in attendance, I'm going  
22 to conclude the proceedings for tonight.

23 Thank you, guys, again for your  
24 patience. Be safe driving home. This meeting



1 is adjourned.

2 (Hearing adjourned at 7:20 p.m.)

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C E R T I F I C A T E

STATE OF DELAWARE )

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NEW CASTLE COUNTY)

I, Kimberly A. Hurley,  
Registered Merit Reporter and Notary Public,  
do hereby certify that the foregoing record,  
pages 1 to 58 inclusive, is a true and  
accurate transcript of my stenographic notes  
taken on Tuesday, December 6, 2016, in the  
above-captioned matter.

IN WITNESS WHEREOF, I have  
hereunto set my hand and seal this 13th day of  
December, 2016, at Wilmington.



Kimberly A. Hurley, RMR



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