

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
DIVISION OF AIR QUALITY

Statutory Authority: 7 Delaware Code, Sections 6010(a) and 6010(c) (7 **Del.C.** §§6010(a) & 6010(c))

GENERAL NOTICE

REGISTER NOTICE

State Implementation Plan (SIP) Revision to certify that Delaware's Emission Statement program meets all 2015 Ozone National Ambient Air Quality (NAAQS) requirements

State Implementation Plan Revision to certify that Delaware's Nonattainment New Source Review program meets all 2015 Ozone NAAQS requirements

State Implementation Plan Revision to certify that Delaware requirements for Reasonably Available Control Technology (RACT) meets all 2015 Ozone NAAQS requirements

1. TITLE OF SIP REVISION:

State Implementation Plan (SIP) Revision to certify that Delaware's Emission Statement program meets all 2015 Ozone National Ambient Air Quality (NAAQS) requirements.

State Implementation Plan Revision to certify that Delaware's Nonattainment New Source Review program meets all 2015 Ozone NAAQS requirements.

State Implementation Plan Revision to certify that Delaware requirements for Reasonably Available Control Technology (RACT) meets all 2015 Ozone NAAQS requirements.

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

DNREC is proposing to submit to the EPA three revisions to its SIP. The SIP revisions are to certify that the following meet all 2015 Ozone NAAQS requirements: 1) Emission Statement program under 7 **DE Admin. Code** 1117, 2) Preconstruction Review program under 7 **DE Admin. Code** 1125, and 3) Requirements for Reasonably Available Control Technology (RACT).

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 **Del.C.** Ch. 60 Environmental Control, Sections 6010(a) and 6010(c).

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

N/A

6. NOTICE OF PUBLIC COMMENT:

A public hearing (Docket #2020-R-A-0003) on the proposed SIP revisions will be held on March 25, 2020 beginning at 6:00PM in the DNREC Auditorium, located at the Richardson & Robbins Building, 89 Kings Highway, Dover, DE 19901. Persons wishing to comment on the proposed amendments may do so either orally or in written form at the public hearing on March 25, 2020. In lieu of attending the public hearing, written comment may be submitted to the Hearing Officer via the online comment form at <https://dnrec.alpha.delaware.gov/public-hearings/comment-form/>, via email to DNRECHearingComments@delaware.gov, or via USPS to Lisa Vest, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE 19901. The Department will accept public comment through the close of business on Thursday, April 9, 2020.

7. PREPARED BY:

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**Delaware State Implementation Plan Revision
Under the 2015 Ozone National Ambient Air Quality Standard**

Certification of Delaware's Non-attainment New Source Review (NNSR) and Emissions Statement Programs

PROPOSAL

Submitted to:

U.S. Environmental Protection Agency

Region 3 – Philadelphia, PA

Prepared by:
Department of Natural Resources & Environmental Control
Division of Air Quality
Emission Inventory Development Program
State Street Commons
100 W. Water Street, Suite 6A
Dover, DE 19904
March, 2020

1. Introduction

On June 4, 2018, EPA issued final designations under the 2015 ozone National Ambient Air Quality Standards (NAAQS) for Delaware counties. EPA included New Castle County in the marginal Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area. The area was classified as a Marginal nonattainment area which became effective on August 3, 2018.

When new NAAQS are promulgated, states must submit certifications of adequacy for their Non-attainment New Source Review (NNSR) and Emissions Statement Programs as part of the required State Implementation Plan (SIP) elements. The purpose of this document is to certify that Delaware's NNSR and Emission Statement Programs satisfy the requirements of the CAA for the 2015 ozone NAAQS.

In addition, Delaware is required to submit two additional elements as part of the new 2015 NAAQS promulgation: 1) a base year inventory of ozone precursors to EPA for New Castle and 2) a Reasonably Available Control Technology (RACT) SIP revision certifying that Delaware, as part of the Ozone Transport Region, meets its obligation to establish RACT controls for VOC and NOx. Delaware plans to submit these required elements of the SIP to EPA in conjunction with the NNSR and Emission Statement Program certifications discussed below.

2. Certification of NNSR program

EPA previously approved a state-wide NNSR SIP revision on August 12, 2019 (84 FR 39758) which covered the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE and the Seaford, DE nonattainment areas for the 2008 ozone NAAQS. EPA published a proposed amendment to the NNSR program in Delaware's approved SIP on February 10, 2020 to update a reference to the current version of EPA's modeling guidance. Delaware does not believe that this amendment will affect 2015 ozone NAAQS implementation. Upon review of the SIP-approved NNSR program, Delaware finds and certifies that no changes are necessary to comply with the 2015 ozone NAAQS NNSR requirements.

The State of Delaware is certifying that its existing NNSR program is at least as stringent as the requirements at 40 CFR 51.165 for ozone and its precursors, as amended by the final rule titled *Implementation of the 2015 National Ambient Air Quality Standard for Ozone: Nonattainment Area State Implementation Plan Requirements* (83 FR 62998, December 6, 2018).

Note that the emission offset provisions of 7 **DE Admin. Code** 1125 approved by EPA into Delaware's SIP on October 2, 2012 (77 FR 60053) continue to apply to Delaware sources in nonattainment areas. EPA did not approve into the SIP the provisions in 7 **DE Admin. Code** 1125 that DE adopted on December 11, 2016. Thus the provisions in the approved Delaware SIP remain applicable requirements, and offsets can only be obtained from the expanded area identified in the December 11, 2016 adoption if the offsets also meet the provisions in the SIP (i.e., they are generated in an area of equal to or higher nonattainment classification, and they are shown to directly impact the nonattainment area where the offsets are being used.) The requirements necessary to appropriately implement Delaware's NNSR program are included in Table 1.

3. Certification of Emission Statement Program

Section 182(a)(3)(B) of the Clean Air Act (CAA) requires states with ozone nonattainment areas to develop emission statement programs for VOC and NOx sources. The required state program and associated regulation defines how states obtain emissions data directly from facilities and report it to the EPA. On July 5, 2019 (84 FR 32068) EPA approved Delaware's certification that its existing Emission Statement program satisfies the emissions statements requirements of the CAA for the 2008 ozone NAAQS. The approved emission statement rule, in force for the 1997 ozone NAAQS and the 1-hour ozone NAAQS, covers all portions of Delaware's nonattainment areas for the 2015 ozone NAAQS, and is sufficient for purposes of the emissions statement requirements for the 2015 ozone NAAQS.

The State of Delaware is certifying that its existing emission statement rule meets the emission statement requirements for the 2015 ozone NAAQS. The requirements necessary to appropriately implement Delaware's Emission Statement program are included in Table 1.

Table 1: 2015 Ozone NAAQS SIP Requirements

Non-attainment New Source Review	
40 CFR 51.165	Delaware Requirements
(a)(1)(iv)(A)(1)(i)-(iv) and (2): Major source thresholds for ozone – VOC and NOx	7 DE Admin. Code 1125 Section 2.2.
(a)(1)(iv)(A)(3): Change constitutes a major source by itself	7 DE Admin. Code 1125 Section 2.2.3.
(a)(1)(v)(E): Significant net emissions increase of NOx is significant for ozone	7 DE Admin. Code 1125 Section 1.9, Definitions – “Major Modification” .
(a)(1)(v)(F): Any emissions change of VOC in Extreme area triggers NNSR	Not applicable since no Delaware nonattainment area is or has previously been designated as Extreme.
(a)(1)(x)(A)-(C) and (E): Significant emissions rates for VOC and NOx as ozone precursors	7 DE Admin. Code 1125 Section 1.9, Definitions – “Significant” .
(a)(3)(ii)(C)(1)-(2): Provisions for emissions reduction credits	7 DE Admin. Code 1125 Section 2.5 as approved into Delaware’s SIP on October 2, 2012. These SIP-approved provisions continue to apply to Delaware sources in nonattainment areas.
(a)(8): Requirements for VOC apply to NOx as ozone precursors	7 DE Admin. Code 1125 Section 2.2.4.
(a)(9)(i)-(iii): Offset ratios for VOC and NOx for ozone nonattainment areas <i>[subparagraphs (a)(9)(i)-(iii) were changed to (a)(9)(ii)-(iv)]</i>	7 DE Admin. Code 1125 Section 2.4.3.
(a)(12): Anti-backsliding provision(s), where applicable	Sources in Kent and New Castle Counties remain subject to requirements and major source thresholds based on the Severe designation for the 1-hour ozone standard. Sussex County remains subject to requirements and major source thresholds based on the Moderate designation as part of an ozone transport region.
Emission Statement Program	
CAA Section 182(a)(3)(B)	Delaware Requirements
182(a)(3)(B)(i) – Submit an emissions statement	7 DE Admin. Code 1117 Section 7.1 – Emissions statement requirements apply to all stationary sources located in an ozone nonattainment area that emit NOx and VOC.
182(a)(3)(B)(i) –Emission statement requirements	7 DE Admin. Code 1117 Section 7.2 – Emissions statements are required to include the following information: Source identification information, operating data, actual emissions data, control equipment information, and process rate information.
182(a)(3)(B)(i) – Submit yearly	7 DE Admin. Code 1117 Section 7.3. Annual emission statements due April 30 for the preceding calendar year.
182(a)(3)(B)(i) – Source certification	7 DE Admin. Code 1117 Section 7.2. Certification statement contained on the Emission Statement to be signed by the Responsible Official.
182(a)(3)(B)(ii) – Reporting thresholds	7 DE Admin. Code 1117 Section 7.1. Annual emissions of 25 tons/year of NOx or VOCs in nonattainment areas.

***Please Note: Due to the size of the SIP, it is not being published here. A PDF version is available at the following**

location:

DNREC DE RACT SIP - Proposed.pdf

[http://regulations.delaware.gov/register/march2020/general/DNREC DE RACT SIP - Proposed.pdf](http://regulations.delaware.gov/register/march2020/general/DNREC%20DE%20RACT%20SIP%20-%20Proposed.pdf)

23 DE Reg. 781 (03/01/20) (Gen. Notice)