



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2014-0245; FRL- 9912-22-Region-3]

**Approval and Promulgation of Air Quality Implementation Plans; Delaware;
Amendments to Delaware's Ambient Air Quality Standards**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Delaware State Implementation Plan (SIP). These amendments will bring Delaware's ambient air quality standards for sulfur dioxide (SO₂), ozone, nitrogen dioxide (NO₂), lead, and particulate matter (PM) up to date with current Federal requirements. EPA is approving these SIP revisions in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on [insert date 60 days after publication in the Federal Register] without further notice, unless EPA receives adverse written comment by [insert date 30 days after publication in the Federal Register]. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2014-0245 by one of the following methods:

- A. www.regulations.gov. Follow the on-line instructions for submitting comments.
- B. E-mail: fernandez.cristina@epa.gov.
- C. Mail: EPA-R03-OAR-2014-0245, Cristina Fernandez, Associate Director, Office of Air

Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2014-0245. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814-2182, or by e-mail at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On February 17, 2014, the State of Delaware submitted a formal SIP revision amending 7 Del. Admin. Code 1103, “Ambient Air Quality Standards.” These amendments will bring the regulatory standards for SO₂, ozone, NO₂, lead, and PM up to date with current Federal requirements.

The CAA specifies that EPA must reevaluate the appropriateness of each of the national ambient air quality standards (NAAQS) every five years. As part of the process, EPA reviewed the latest health-based research and determined that several NAAQS revisions were necessary to protect

public health and welfare.

EPA revised the 8-hour ozone primary and secondary standards to a level of 0.075 parts per million (ppm) to provide increased protection for children and other at-risk populations against an array of ozone-related adverse health effects. These standards are based on the 3-year average of the annual fourth-highest daily maximum 8-hour concentration. EPA promulgated these NAAQS for ozone on March 27, 2008 (73 FR 16436).

EPA revised the primary lead standard to 0.15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to improve health protection for at-risk groups, especially children. The secondary standard was also revised to 0.15 $\mu\text{g}/\text{m}^3$ to afford increased protection for the environment. EPA promulgated these primary and secondary NAAQS for lead on November 12, 2008 (73 FR 66964).

EPA established the primary 1-hour SO_2 NAAQS at a level of 75 parts per billion (ppb), based on the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations on June 22, 2010 (75 FR 35520). This revised standard will improve public health protection, especially for children, the elderly, and people with asthma. EPA is retaining the current secondary 3-hour SO_2 NAAQS of 0.5 ppm.

EPA established the 1-hour NO_2 NAAQS at a level of 100 ppb, based on the 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations, on February 9, 2010 (75 FR 6474). EPA is retaining the current primary and secondary annual average NO_2 NAAQS of 53 ppb.

With regard to the primary (health-based) standards for fine particulate matter (PM_{2.5}), EPA revised the annual PM_{2.5} standard by lowering the level to 12.0 µg/m³ and retaining the 24-hour PM_{2.5} standard at a level of 35 µg/m³, on January 15, 2013 (78 FR 3086). EPA also retained the existing 24-hour coarse particle (PM₁₀) primary and secondary standards set at a level of 150 µg/m³.

II. Summary of SIP Revision

The SIP revision submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC) on February 17, 2014, consists of amendments to 7 Del Admin. Code 1103, which includes the revised ambient air quality standards for SO₂, ozone, NO₂, lead, and PM. The SIP revision is consistent with the current NAAQS. The SIP revision also includes amendments to the definitions of primary and secondary air quality standards. In addition, the SIP revision includes updated test methods and emission standards in order to be up to date with current Federal requirements.

III. Final Action

EPA is approving the SIP revision pertaining to the amendments of Delaware's ambient air quality standards since the SIP revision is consistent with the NAAQS. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's Federal Register, EPA is publishing a separate document that will serve as the proposal to approve the

SIP revision if adverse comments are filed. This rule will be effective on [insert date 60 days from date of publication in the Federal Register] without further notice unless EPA receives adverse comment by [insert date 30 days from date of publication in the Federal Register]. If EPA receives adverse comment, EPA will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking action.

This action, pertaining to the amendments of Delaware's ambient air quality standards, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: June 2, 2014.

Shawn M. Garvin,
Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart I—Delaware

2. In § 52.420, the table in paragraph (c) is amended under 7 DNREC, Code 1103 by revising entries for Sections 1.0, 4.0, 6.0, 8.0, 10.0, and 11.0 to read as follows:

§ 52.420 Identification of plan.

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(c) * * *

EPA-Approved Regulations and Statutes in the Delaware SIP

State regulation (7 DNREC 1100)	Title/subject	State effective date	EPA approval date	Additional explanation
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1103 Ambient Air Quality Standards				
Section 1.0	General Provisions	01/11/14	[Insert Federal Register publication date] [Insert page number where the document begins]	Revised sections.
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Section 4.0	Sulfur Dioxide	01/11/14	[Insert Federal Register publication date] [Insert page number where the document begins]	Revised sections.
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Section 6.0	Ozone	01/11/14	Insert Federal	Revised sections.

State regulation (7 DNREC 1100)	Title/subject	State effective date	EPA approval date	Additional explanation
			<u>Register publication date</u> [<u>Insert page number where the document begins</u>]	
Section 8.0	Nitrogen Dioxide	01/11/14	<u>Insert Federal Register publication date</u> [<u>Insert page number where the document begins</u>]	Revised sections.
Section 10.0	Lead	01/11/14	<u>Insert Federal Register publication date</u> [<u>Insert page number where the document begins</u>]	Revised sections.
Section 11.0	PM ₁₀ and PM _{2.5} Particulates	01/11/14	<u>Insert Federal Register publication date</u> [<u>Insert page number where the document begins</u>]	Revised sections.
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[FR Doc. 2014-14029 Filed 06/16/2014 at 8:45 am; Publication Date: 06/17/2014]