

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
DIVISION OF AIR QUALITY

Statutory Authority: 7 Delaware Code, Chapter 60 (7 Del.C. Ch. 60)

ERRATA

Final Revisions to Delaware's State Implementation Plan ("SIP") to address the Start-up, Shutdown, and Malfunction SIP Call of the United States Environmental Protection Agency (U.S. EPA)

***Please Note:** The submitted Final Revision to Delaware's State Implementation Plan ("SIP") to address the Start-up, Shutdown, and Malfunction SIP Call of the United States Environmental Protection Agency (U.S. EPA) (Secretary's Order No. 2016-A-0047), that was published as a General Notice in the January 2017 issue of the Delaware *Register of Regulations* (20 DE Reg. 567), contained typographical errors. The State Implementation Plan Revision was approved as originally published in the October 2016 issue of the *Register* (20 DE Reg. 317). The correct version is reprinted below. The effective date of the General Notice remains the same.

Proposal

Delaware
State Implementation Plan Revision

Revision to Satisfy EPA's State Implementation Plan (SIP) Call Related to Air Emissions During Equipment Start-up and Shutdown

Submitted To
U.S. Environmental Protection Agency

Submitted By
Delaware Department of Natural Resources and Environmental Control

September 15, 2016

1. Introduction

On June 12, 2015 the EPA, identified the State Implementation Plans (SIPs) of 36 states as inadequate because they allegedly allowed unregulated excess emissions (80 FR 33840). Seven Delaware regulations were cited in this SIP Call because the EPA believes the regulations do not appropriately restrict emissions during start-up or shutdown events. The seven Delaware regulations are: 7 **DE Admin. Code** 1104, 1105, 1108, 1109, 1114, 1124 and 1142.

Delaware does not agree with the EPA for the reasons cited in the comments Delaware made to the EPA docket. Despite this disagreement Delaware is revising the Delaware's SIP to comport with the EPA SIP Call to ensure the State is not subject to punitive CAA sanctions. This document details the revisions Delaware is making to the SIP, and demonstrates that these revisions comport with the EPA's interpretation of the CAA and are consistent with the EPA's approach for attainment and maintenance of all National Ambient Air Quality Standards (NAAQS).

2. SIP Revision and Impact Analysis

2.1 7 **DE Admin. Code** 1104, Particulate Emissions from Fuel Burning Equipment

2.1.1 Delaware requests that EPA revise 7 **DE Admin. Code** 1104, Particulate Emissions from Fuel Burning Equipment, in the Delaware SIP as follows¹:

1.5 ~~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.~~

2.1 ~~Reserved. No person shall cause or allow the emission of particulate matter in excess of 0.3 pound per million BTU heat input, maximum two-hour average, from any fuel burning equipment.~~

2.2 No person shall cause or allow the emission of particulate matter in excess of 0.3 pound per million BTU heat input, maximum 30-day rolling average, from any fuel burning equipment.

1. Along with the new provision (i.e., 2.2) the two provisions that are removed from the SIP (i.e., 1.5 and 2.1) will be retained and enforced by Delaware through the State regulation.

- 2.1.2 Impact on attainment and maintenance of NAAQS. This revision provides the opportunity for any subject source to compensate for higher emission rates during startup or shutdown events by operating at corresponding lower rates during normal operations, so long as continuous compliance is demonstrated on a 30-day rolling average basis. This revision does not change the existing continuous emission limit in the SIP, nor will it result in any increase in emissions on a tons per year basis.
- 2.2 **7 DE Admin. Code 1105, Particulate Emissions from Industrial Process Operations**
- 2.2.1 Delaware requests that EPA revise **7 DE Admin. Code 1105 Particulate Emissions from Industrial Process Operations**, in the Delaware SIP as follows²:
- 1.7 ~~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.~~
- 2.1 ~~Reserved. No person shall cause or allow particulate emissions into the atmosphere from any source not provided for in subsequent sections of this Regulation in excess of 0.2 grains per standard cubic foot.~~
- 2.2 No person shall cause or allow particulate emissions into the atmosphere from any source not provided for in subsequent sections of this Regulation in excess of 0.2 grains per standard cubic foot on a 30-day rolling average basis.
- 2.2.2 Impact on attainment and maintenance of NAAQS. This revision provides the opportunity for any subject source to compensate for higher emission rates during startup or shutdown events by operating at corresponding lower rates during normal operations, so long as continuous compliance is demonstrated on a 30-day rolling average basis. This revision does not change the existing continuous emission limit in the SIP, nor will it result in any increase in emissions on a tons per year basis.
- 2.3 **7 DE Admin. Code 1108, Sulfur Dioxide Emissions from Fuel Burning Equipment.** For **7 DE Admin. Code 1108** the provision EPA identified as deficient (i.e., 1.2) was removed from the Regulation under Secretary's Order (2013-A-0021), which was signed on 6/11/2013 and submitted to the EPA as a SIP revision. Since this SIP Call only deals with 1.2 of 1108, and since the revised regulation which does not include 1.2 was submitted to the EPA as a SIP revision, no further action is required under this SIP Call by Delaware relative to **7 DE Admin. Code 1108**.
- Since the cited provision has been removed from the Delaware Regulation, and because the EPA has indicated the cited provision allows for excess emissions, this revision comports with the EPA's interpretation of the CAA and is consistent with the EPA's approach for attainment and maintenance of all National Ambient Air Quality Standards (NAAQS).
- 2.4 **7 DE Admin. Code 1109, Emissions of Sulfur Compounds from Industrial Operations.** For **7 DE Admin. Code 1109** Delaware requests that the EPA remove the entire regulation from the Delaware SIP³.
- Delaware believes existing federal requirements like, for example, New Source Performance Standards are adequate to ensure attainment and maintenance of sulfur related NAAQS in Delaware. Delaware believes that removal of this regulation from the SIP will not result in any increase in emissions on a ton per year basis, and that this revision comports with the EPA's interpretation of the CAA and is consistent with the EPA's approach for attainment and maintenance of all NAAQS.
- 2.5 **7 DE Admin. Code 1114, Visible Emissions.** For **7 DE Admin. Code 1114** Delaware requests that the EPA remove the entire regulation from the Delaware SIP⁴.
- Delaware believes existing federal requirements like, for example, New Source Performance Standards regulate visible emissions, plus other Delaware SIP regulations that regulate fine particulate matter and fine particulate matter precursors (e.g., 1108 and 1146) are adequate to ensure attainment and maintenance of any particulate related NAAQS in Delaware. Further, there is no quantifiable relationship between visibility emissions and fine particulate matter emissions. Delaware believes that removal of this regulation from the SIP will not result in any increase in emissions on a ton per year basis, and that this revision comports with the EPA's interpretation of CAA and is consistent with the EPA's approach for attainment and maintenance of all NAAQS.

2. Along with the new provision (i.e., 2.2) the two provisions that are removed from the SIP (i.e., 1.7 and 2.1) will be retained and enforced by Delaware through the State regulation.

3. The regulation will be retained and enforced by Delaware.

4. The regulation will be retained and enforced by Delaware.

2.6 7 **DE Admin. Code** 1124, Control of Volatile Organic Compound Emissions. For 7 **DE Admin. Code** 1124 Delaware requests that the EPA remove the provision EPA identified as deficient (1.4) from the Delaware SIP as follows:

1.4 ~~Reserved. The provisions of this regulation shall not apply to the startup and shutdown of equipment which operates continuously or in an extended steady state when emissions from such equipment during startup and shutdown are governed by an Operating Permit issued pursuant to the provisions of 2.0 of 7 **DE Admin. Code** 1102.~~

Since the cited provision has been removed from the Delaware Regulation, and because the EPA has indicated the cited provision allows for excess emissions, this revision should be considered as strengthening the SIP and one which comports with the EPA's interpretation of the CAA and is consistent with EPA's approach for attainment and maintenance of all NAAQS.

2.7 7 **DE Admin. Code** 1142, Section 2.0, Control of NO_x Emissions from Industrial Boilers and Process Heaters at Petroleum Refineries. For 7 **DE Admin. Code** 1142 Delaware requests that the EPA remove the provision EPA identified as deficient (2.3.1.6) from the Delaware SIP as follows:

2.3.1.6 ~~Reserved. The standards set out in 2.3 of this regulation shall not apply to the start-up and shutdown of equipment when emissions from such equipment during a start-up and shutdown are addressed in an operation permit issued pursuant to the provisions of 7 **DE Admin. Code** 1102.~~

Since the cited provision has been removed from the Delaware Regulation, and because the EPA has indicated the cited provision allows for excess emissions, this revision should be considered as strengthening the SIP and one which comports with the CAA and is consistent with EPA's approach for attainment and maintenance of all NAAQS.

3. Conclusion

Based on the analysis in the previous section of this document, Delaware concludes that this regulatory revision including the identified SIP revision will not have any adverse impact on Delaware's overall efforts for attaining and maintaining all NAAQS. Therefore, this SIP revision and its analysis meet the anti-backsliding provision of CAA Sec. 110(l).

20 DE Reg. 678 (03/01/17) (Errata)