

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF AIR QUALITY

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

GENERAL NOTICE

REGISTER NOTICE

Approving Final Revisions to Delaware's State Implementation Plan ("SIP"): Revision to Address Section 110 Infrastructure Requirements of the Clean Air Act for the 2015 National Ambient Air Quality Standards ("NAAQS") for Ground-Level Ozone

Date of Issuance: October 8, 2018

Effective Date of the Amendment: October 8, 2018

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") pursuant to 7 Del.C. §§6006, 6010, and all other statutory authority, the following findings of fact based on the record, reasons and conclusions are entered as an Order of the Secretary in the above-referenced promulgation.

Background, Procedural History and Findings of Fact

This Order relates to the proposed revisions to the Delaware State Implementation Plan ("SIP"), specifically, to address the Section 110 Infrastructure Requirements of the Clean Air Act ("CAA") for the 2015 National Ambient Air Quality Standards ("NAAQS") for Ground-Level Ozone. Delaware is required by Section 110 of the federal Clean Air Act to submit to the U.S. Environmental Protection Agency ("EPA") a SIP that provides for the implementation, maintenance, and enforcement of the NAAQS as established by EPA.

A SIP is a state plan that identifies how that state will attain and maintain air quality that conforms to each primary and secondary NAAQS. The SIP is a complex, fluid document containing regulations, source-specific requirements, and non-regulatory items such as plans and inventories. Delaware submitted its initial SIP to EPA in 1972. Delaware periodically submits revisions to the SIP as required by the CAA to address air quality non-attainment and maintenance issues. The CAA requires that any proposed SIP revision be made available for public comment, and presented at a public hearing prior to submitting to EPA for adoption.

On October 1, 2015, the EPA promulgated a revised NAAQS for ground-level ozone at a level of 0.070 parts per million. The proposed SIP revisions fulfill the infrastructure requirement relative to the 2015 Ozone NAAQS, and demonstrate how Delaware's SIP satisfies the CAA's "Good Neighbor" provision, as set forth in Section 110(a)(2)(D)(i)(I). In particular, the Good Neighbor provision requires each state to demonstrate that emissions from sources within that state do not contribute significantly to non-attainment in, or interfere with maintenance by, any other state with respect to a particular NAAQS. With the proposed SIP document, Delaware will show it satisfies the Good Neighbor provision for the 2015 Ozone NAAQS by showing that all non-trivial sources of emissions of nitrogen oxides and volatile organic compounds in Delaware are well controlled.

The Department has the statutory basis and legal authority to act with regard to the proposed SIP revisions as referenced above, pursuant to 7 Del.C. Chapter 60. The Department published the General Notice of the proposed SIP revisions, and of the August 22, 2018 public hearing held in this matter, in the August 1, 2018 Delaware *Register of Regulations*. One member of the public attended that hearing, but no formal public comment was received by the Department with regard to this matter. It should also be noted that all proper notification and noticing requirements concerning this matter were met by the Department. Proper notice of the hearing was provided as required by law.

The Department's presiding hearing officer, Lisa A. Vest, prepared a Hearing Officer's Report dated September 21, 2018 ("Report"). The Report documents the proper completion of the required SIP revision process, establishes the record, and recommends the adoption of the proposed SIP revisions as attached to the Report as Appendix "A."

Reasons and Conclusions

Based on the record developed by the Department's experts and established by the Hearing Officer's Report, I find that the proposed Delaware SIP document is well-supported. I further find that the Department's experts in the Division of Air Quality fully developed the record to support adoption of the SIP document. Therefore, the recommendations of the Hearing Officer are hereby adopted, and I direct that the same be promulgated as final.

The following reasons and conclusions are hereby entered:

1. The Department has the statutory basis and legal authority to act with regard to its proposed SIP document,

pursuant to 7 Del.C. Ch. 60;

2. The Department has jurisdiction under its statutory authority, pursuant to 7 Del.C. Ch. 60, to issue an Order adopting this proposed SIP document as final;

3. The Department provided adequate public notice of the proposed SIP document, and all proceedings associated with the same, in a manner required by the law and regulations. The Department provided the public with an adequate opportunity to comment on the proposed SIP document, including at the time of the public hearing held on August 22, 2018, and held the record open through close of business on September 6, 2018, consistent with 29 Del.C. §10118(a), in order to consider public comment on the same before making any final decision;

4. The Department's Hearing Officer's Report, including its established record and the aforementioned recommended proposed SIP document as set forth in Appendix "A," is hereby adopted to provide additional reasons and findings for this Order;

5. Promulgation of this proposed SIP document will enable the Department to provide certification to EPA that (1) Delaware meets all of the necessary implementation, maintenance, and enforcement measures for the 2015 Ozone NAAQS, as set forth in Section 110(a)(2) of the Clean Air Act; and (2) Delaware satisfies the Good Neighbor provision for the 2015 Ozone NAAQS, as specifically set forth in Section 110(a)(2)(D)(i)(I) of the Clean Air Act, by showing that all non-trivial sources of emissions of nitrogen oxides and volatile organic compounds in Delaware are well controlled;

6. The Department's proposed SIP document, as published in the August 1, 2018 Delaware *Register of Regulations*, and as set forth in Appendix "A" as noted above, is adequately supported, is not arbitrary or capricious, and is consistent with the applicable laws and regulations. Consequently, it is approved as a final SIP document, which shall become effective immediately upon the signing of this Order; and

7. The Department shall submit this Order approving as final the proposed Delaware SIP document to the Delaware *Register of Regulations* for publication in its next available issue, and provide such other notice as the law and regulation require and the Department determines is appropriate.

Shawn M. Garvin
Secretary

***Please Note: Due to the size of the SIP and Appendix A, they are not being published here. PDF versions are available at the following locations:**

DNREC Clean Air Act SIP

[http://regulations.delaware.gov/register/november2018/general/DNREC Clean Air Act SIP.pdf](http://regulations.delaware.gov/register/november2018/general/DNREC%20Clean%20Air%20Act%20SIP.pdf)

Appendix A

[http://regulations.delaware.gov/register/november2018/general/Appendix A.pdf](http://regulations.delaware.gov/register/november2018/general/Appendix%20A.pdf)

22 DE Reg. 414 (11/01/18) (Gen. Notice)