

**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**

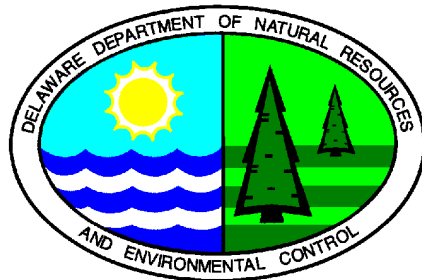
Prepared by:

**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



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## 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 NO<sub>x</sub> 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.

<b>Table 1: 2015 Ozone NAAQS SIP Requirements</b>	
<b>Non-attainment New Source Review</b>	
<b>40 CFR 51.165</b>	<b>Delaware Requirements</b>
(a)(1)(iv)(A)(I)(i)-(iv) and (2): Major source thresholds for ozone – VOC and NO <sub>x</sub>	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 NO <sub>x</sub> is significant for ozone	7 DE Admin. Code 1125 Section 1.9, Definitions – <b>“Major Modification”</b> .
(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 NO <sub>x</sub> as ozone precursors	7 DE Admin. Code 1125 Section 1.9, Definitions – <b>“Significant”</b> .
(a)(3)(ii)(C)(I)-(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 NO <sub>x</sub> as ozone precursors	7 DE Admin. Code 1125 Section 2.2.4.
(a)(9)(i)-(iii): Offset ratios for VOC and NO <sub>x</sub> 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.
<b>Emission Statement Program</b>	
<b>CAA Section 182(a)(3)(B)</b>	<b>Delaware Requirements</b>
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 NO <sub>x</sub> 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 NO <sub>x</sub> or VOCs in nonattainment areas.