



**Department of Natural Resources and
Environmental Control**

Division of Air Quality

Regulation Proposal

7 DE Admin. Code 1102 “Permits”

Technical Support Document

October 2021

INTRODUCTION

The Division of Air Quality (AQ) of the Department of Natural Resources and Environmental Control (DNREC) is proposing to amend 7 **DE Admin. Code** 1102, Permits. Delaware state law requires air quality Natural Minor permits for equipment which has the potential to discharge air contaminants into the atmosphere. Regulation 1102 establishes permitting procedures and requirements for these Natural Minor permits. Natural Minor permits are issued to all sources whose uncontrolled emissions exceed 10 pounds per day.

The Title V permit program covers sources whose uncontrolled emissions exceed Major Source levels. Major source thresholds for Delaware are shown in Table 1. Facilities that exceed the Major Source threshold require a Title V Operating permit.

Table 1. Major Source Thresholds for Delaware Counties

	Volatile Organic Compounds	Nitrogen Oxide	Carbon Monoxide	Sulfur	Particulates	Hazardous Air Pollutants	Other
New Castle	25	25	100	100	100	10	100
Kent	25	25	100	100	100	10	100
Sussex	50	100	100	100	100	10	100

Measured in tons per year. The threshold of 10 tons/year for HAPs is for a single HAP. The annual total threshold for all HAPs in 25 tons/year.

BACKGROUND

State Implementation Plans

7 **DE Admin. Code** 1102 is part of Delaware's State Implementation Plan (SIP). A SIP is a federally enforceable plan that is developed by states to explain how they will comply with the Clean Air Act (CAA), in order to improve air quality. It is comprised of a collection of regulations and documents used by a state to demonstrate that they are protecting public health and the environment.

When regulations that are part of the SIP are amended, states are required to submit the proposed amendments to the Environmental Protection Agency (EPA) for approval. If the amendments are approved by EPA, they become part of the SIP and become federally enforceable.

Public Notice Requirements

Section 12.0 of 7 **DE Admin. Code** 1102 was adopted to implement public notification requirements for Natural Minor permits. The regulation requires AQ to provide for public participation and comment when reviewing and issuing permits. There is also a requirement to advertise permit application information in Delaware newspapers, in accordance with Delaware state statute Title 7 chapter 60 Sections 6003 and 6004. Members of the public also have the opportunity to request a hearing for the permit application, if one has not already been scheduled.

PROPOSED AMENDMENTS TO 7 DE ADMIN. CODE 1102

On October 18, 2016, the EPA issued a final rule (81 FR 71613), which updated the list of required components for public notices for Title V operating permits. Title V permits are required by the CAA for larger sources in the state. These changes were codified in the Code of Federal Regulations, 40 CFR 70.7(h)(2). 7 **DE Admin. Code** 1130, Title V State Operating Permit Program establishes permitting procedures and requirements for Title V Operating permits in Delaware.

In a separate, but parallel regulatory action; AQ also proposed amendments to 7 **DE Admin. Code** 1130, to incorporate the new public notice requirements that EPA codified in 40 CFR 70.7(h)(2).

In order to standardize the public notice requirements for both Title V Operating and Natural Minor permits in Delaware, AQ is also proposing in this action to amend the public notice requirements in 7 **DE Admin. Code** 1102 for construction Natural Minor permits. The changes to regulation 1102 will include: 1) adding the name, address and telephone number of the DNREC Staff from whom interested parties can contact for additional information and 2) the time and place of any hearing, if one has already been scheduled.