



**Department of Natural Resources and  
Environmental Control**

**Division of Air Quality**

**Regulation Proposal**

**7 DE Admin. Code 1103 “Ambient Air  
Quality Standards”**

**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** 1103, Ambient Air Quality Standards. Regulation 1103 sets air quality standards, to protect public health and the environment.

## **BACKGROUND**

### **State Implementation Plans**

7 **DE Admin. Code** 1103 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.

### **National Ambient Air Quality Standards**

The CAA gives EPA the authority to establish National Ambient Air Quality Standards (NAAQS), which are implemented to protect public health and the environment. The NAAQS were established by the EPA for six "criteria air pollutants": ground level ozone, sulfur dioxide, particulate matter, nitrogen dioxide, carbon monoxide, and lead. The NAAQS have both primary and secondary standards. Primary standards are required to protect the public health, secondary standards protect the environment.

The CAA requires EPA to periodically review the science upon which the NAAQS are based and the standards themselves, to determine if the standards should be revised. When a NAAQS is revised, EPA must designate areas as meeting (attainment) or not meeting (nonattainment) the standard. The CAA requires states to develop a general plan to attain and maintain the standards in all areas of the country and a specific plan to attain the standards for each area designated nonattainment.

In 2015 EPA strengthened the primary and secondary NAAQS for ground-level ozone (2015 NAAQS). On October 26, 2015, EPA published a final rule (*80 FR 65292*) that lowered the primary and secondary NAAQS from the 2008 Ozone NAAQS value of 0.075 parts per million (ppm) to 0.070 ppm (2015 Ozone NAAQS), in terms of a 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations. Subsequently, the EPA announced on November 16, 2017, that New Castle County, Delaware had been declared nonattainment for ozone for the 2015 Ozone NAAQS.

## **NAAQS Monitoring**

In order to determine if an area is attaining the NAAQS, states must measure the level of criteria pollutants in ambient air. This is accomplished by conducting long-term, fixed-site air monitoring of criteria pollutants. Delaware currently has eleven stationary monitoring sites throughout the state. EPA develops monitoring methodologies that states must use for measuring criteria pollutants in their state. EPA publishes these methodologies in the Code of Federal Regulations (CFR): 40 CFR Part 50. The data gathered from the monitoring stations is used to assess compliance with or progress made towards meeting NAAQS.

## **PROPOSED AMENDMENTS TO 7 DE ADMIN. CODE 1103**

### Update of Ozone NAAQS

Currently, the primary and secondary ozone standards in 7 **DE Admin. Code** 1103, Section 6.0 reflect the 2008 Ozone NAAQS of 0.075 ppm. This action will update the primary and secondary ozone standards in 7 **DE Admin. Code** 1103, Section 6.0 to the 2015 Ozone NAAQS of 0.070 ppm.

### Removal of Revoked Sulfur Dioxide NAAQS

The proposed amendments will also remove 7 **DE Admin. Code** 1103, subsections 4.2 (sulfur dioxide 24-hour primary standard) and 4.3 (sulfur dioxide annual primary standard). In a final rule (75 FR 35520) published on June 22, 2010, EPA reviewed the NAAQS for sulfur dioxide and determined that the available science showed that a shorter term 1-hour average measurement of sulfur dioxide would be more protective of human health. Consequently, EPA revoked the 24-hour and annual primary standards and replaced them with the more stringent 1-hour average. Therefore, Delaware is amending 7 **DE Admin. Code** 1103 to remove the 24-hour and annual primary standards.

### Incorporation by Reference of EPA Monitoring Methodologies

The purpose of Incorporation by Reference (IBR) is to make specific EPA documents federally enforceable or defensible without printing them in their entirety in a state regulation. These amendments to 7 **DE Admin. Code** 1103 will update the federal reference dates for individual methodologies, for all the NAAQS listed in 7 **DE Admin. Code** 1103. The reference dates will be updated to July 1, 2019; the most current version of the CFR, as of the writing of this document. Updating the CFR incorporation by reference dates will ensure that Delaware is using the most current methodologies set by EPA for measuring criteria pollutant levels, to determine progress towards attaining the NAAQS.

In conclusion, the proposed amendments to 7 **DE Admin. Code** 1103 will clarify the NAAQS requirements in Delaware and update federal references in the regulation to the most current CFR documents. These amendments are administrative and are not anticipated to result in any emission reductions or increases, nor are these proposed amendments expected to impact an overburdened or underserved community located in Delaware.