

1 Proposed Revisions to Delaware State Implementation
2 Plan Revision for Serious Classification Requirements
3 for New Castle County for the 2015 8-Hour Ozone
4 National Ambient Air Quality Standard

5
6 Docket No. 2025-R-A-0015

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9 Moderated by Theresa Smith
10 Tuesday, September 22, 2026
11 6:00 p.m.

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14 Remote Proceeding
15 Delaware Department of Natural Resources and
16 Environmental Control
17 89 Kings Highway
18 Dover, DE 19901

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23 Reported by: Carlo Florio
24 JOB NO: 8410487

1 A P P E A R A N C E S

2 List of Attendees:

3 Theresa Smith, Hearing Officer

4 Kelsey Schiliro, Delaware Department of Natural
5 Resources and Environmental Control

6 Renae Held, Delaware Department of Natural Resources
7 and Environmental Control

8 Semaj Bungy-Carter, Delaware Department of Natural
9 Resources and Environmental Control (by
10 videoconference)

11 Taylor Englert, Delaware Department of Natural
12 Resources and Environmental Control (by
13 videoconference)

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P R O C E E D I N G S

THE HEARING OFFICER: Good evening.

The time is now 6 p.m. on Tuesday, September 22, 2026. My name is Theresa Smith and Secretary Patterson has appointed me to serve as the hearing officer for tonight's formal proceeding.

For ADA compliance, tonight's formal proceeding offers closed captioning and a variation of languages. To use the closed captioning feature from your computer, please click on the show captions button located at the bottom of your screen. If you don't see the show captions button, you may need to select the three dots that say more.

Once you find your show captions button, you should click on the carrot pointing up, which will bring up your translation options. You can then select your preferred language there. If your preferred language is not listed, you may select more and all of the lists -- all of the languages will be listed that are available, so hopefully by now you have all connected properly and we will go ahead and begin the public hearing scheduled for tonight.

First and foremost, I would like to thank you all for taking the time out of your

1 schedules to join us. This virtual platform allows
2 the State of Delaware Department of Natural Resources
3 and Environmental Control to conduct its first public
4 hearing on the proposed revisions to Docket Number
5 2025-R-A-0015, Delaware State Implementation Plan
6 Revision to Serious Classification Requirements for
7 New Castle County for the 2015 8-Hour Ozone National
8 Ambient Air Quality Standard.

9 The purpose of this hearing is to build
10 a record in regard to the hearing matter by providing
11 a formal legal platform for the public to learn about
12 the proposed revisions and to enable the public an
13 opportunity to offer live comment.

14 This hearing is being conducted
15 virtually. No one is together in the same room and is
16 participating independently at their own respective
17 locations. While we are not gathered physically
18 tonight, Zoom does generate a list of those who are
19 virtually present for this proceeding so the
20 Department will have a record of those who have
21 electronically joined this event.

22 There is a court reporter virtually
23 present who will prepare a verbatim transcript of this
24 hearing pursuant to the statutory requirement for

1 DNREC to have the same prepared. And as always, that
2 transcript will be posted on the hearing webpage
3 dedicated to this matter as soon as it is received.

4 In addition, I would encourage those
5 who are attending the hearing to also visit the
6 hearing's webpage dedicated to this matter for
7 additional details concerning the proposed revisions
8 to the State Implementation Plan.

9 The hearing record presented tonight
10 along with all other related documents are posted on
11 that DNREC, the Department's hearing webpage dedicated
12 to this matter. The hearing webpage can be found
13 under the administrative law section of DNREC's
14 website that will be listed towards the end of
15 tonight's hearing.

16 At the conclusion of my introductory
17 remarks, I'll be turning the hearing record over to
18 the Department staff to provide the presentation for
19 the record being generated in this matter. The
20 Department would have then opened up a verbal comment
21 portion of the hearing following the Department's
22 presentation, the Department did not receive
23 registration for verbal comment for tonight's hearing.

24 It is important to note that department

1 offered the opportunity to register to provide verbal
2 comment as noticed in the legal ads and online. Those
3 who would've wished to provide a verbal comment would
4 have needed to register by 12 p.m. today to which
5 there were no registrants by that time.

6 Before we begin the presentation,
7 please be advised of the following protocols that
8 remain in place for all DNREC public hearings. All
9 comment received must be limited solely to the subject
10 matter for tonight's hearing. All comments pertinent
11 to the subject matter of this virtual hearing will be
12 incorporated into the record being generated in this
13 matter.

14 In light of the Administrative
15 Procedures Act and to ensure everyone who wishes to
16 offer comment for the secretary's consideration is
17 accommodated, the Department is required to, at a
18 minimum, provide a comment period of 15 days after the
19 hearing.

20 There is only one authentic record of
21 the formal proceeding tonight and it is the official
22 court reporter's verbatim transcript. The statutory
23 purpose of tonight's hearing is to build a record with
24 regard to the Department's proposed actions, a record

1 consisting of the transcript from the hearing tonight,
2 all written comments, all exhibits, and eventually the
3 hearing officer's report will be reviewed by Secretary
4 Patterson. The secretary will ultimately issue an
5 order following that review process containing his
6 decision on this matter and the reasons therefore.

7 Per DNREC hearing protocols, there will
8 be no Q and A or chat session permitted during the
9 hearing and it is important to note that no decision
10 has already been made by the Department nor will any
11 decision be made tonight with regard to the proposed
12 SIP matter.

13 As previously stated, DNREC wishes to
14 ensure that everyone is enabled to offer their
15 comments for inclusion into the record being generated
16 in this matter. As noticed in the legal ads and
17 online, the Department stated that the public comment
18 period will be open through October 7, 2026.

19 Comments may be submitted through a
20 comment form link on the hearing webpage via email to
21 dnrechearingcomments@delaware.gov or via the US Postal
22 Service at the physical address for DNREC indicated on
23 the hearing webpage and/or the public notices
24 previously issued in this matter.

1 Written comments to DNREC may not be
2 submitted using social media platforms such as
3 Twitter, Facebook, YouTube, links to videos or text
4 messaging. Please remember that all comment received
5 either through USPS or via the electronic mechanisms
6 just noted as long as is received by the Department on
7 or before October 7th will bear the exact same weight
8 and will be considered equally by the secretary prior
9 to making his final decision in this matter.

10 Lastly, the ultimate decision regarding
11 this matter is made by DNREC Secretary Patterson.
12 This role proceeding tonight acts as a mechanism to
13 enable the Department to thoroughly vet the hearing
14 matter to the public and to let the public know the
15 various ways which comment may be submitted for
16 Secretary Patterson's consideration if so desired.

17 I will now hand it over to Mrs. Kelsey
18 Schiliro with the Division of Air Quality to provide
19 the Department's presentation.

20 MS. SCHILIRO: Okay. Good evening. My
21 name is Kelsey Schiliro and I'm an environmental
22 scientist with Airshed Planning and Inventory Group
23 for the Division of Air Quality in the Delaware
24 Department of Natural Resources and Environmental

1 Control.

2 The purpose of this hearing is to
3 receive public comments on Delaware State
4 Implementation Plan revision for serious
5 classification requirements for New Castle County
6 related to the 2015 8-hour Ozone National Ambient Air
7 Quality Standard.

8 During this hearing, we will cover the
9 following topics: what a State Implementation Plan is
10 and why it matters; a general overview of the
11 pollutant ozone; information about the National
12 Ambient Air Quality Standard for ozone; Delaware's
13 ozone attainment history; what the 107 Clean Air Act
14 re-designation and clean data determination means for
15 Delaware, followed by the proposed revisions to the
16 State Implementation Plan; and finally, concluding
17 with the proposed withdrawal of components associated
18 with attainment dates regarding Delaware's previously
19 submitted Moderate Ozone State Implementation Plan.

20 Delaware State Implementation Plan
21 identifies how Delaware will attain and maintain air
22 quality and is set forth in Title 40 of the Code of
23 Federal Regulations at Part 52, Subpart I.

24 Ground level ozone. One of the

1 principle components of smog is a serious air
2 pollutant that harms human health and the environment.
3 High levels of ozone can damage the respiratory system
4 and cause breathing problems, throat irritation,
5 coughing, chest pains, and a greater susceptibility to
6 respiratory infection.

7 The Environmental Protection Agency
8 promulgated a revised National Ambient Air Quality
9 Standard for ground level ozone. In 2015, of 70 parts
10 per billion, New Castle County was designated as non-
11 attainment for the standard. Kent and Sussex counties
12 were designated as attainment for the standard.

13 On June 4, 2018, the Environmental
14 Protection Agency designated 51 areas of the country
15 as non-attainment under the 2015 8-hour Ozone National
16 Ambient Air Quality Standard. Among those
17 non-attainment areas was the
18 Philadelphia-Wilmington-Atlantic City non-attainment
19 area consisting of Pennsylvania, New Jersey, Maryland,
20 and Delaware, also known as the Philadelphia
21 non-attainment area, which includes New Castle County
22 and Delaware.

23 In the Environmental Protection
24 Agency's designation process, the Philadelphia

1 non-attainment area was designated as marginal. The
2 attainment deadline for marginal non-attainment areas
3 was August 3, 2021.

4 The Philadelphia non-attainment area
5 failed to meet the marginal attainment deadline.
6 Failing to attain the standard by the applicable
7 marginal attainment date requires that non-attainment
8 areas be reclassified to moderate non-attainment for
9 the 2015 Ozone National Ambient Air Quality Standard.
10 The Environmental Protection Agency designated the
11 Philadelphia non-attainment area as moderate On
12 October 7, 2022.

13 The attainment deadline for moderate
14 non-attainment areas was August 3, 2024. The
15 Philadelphia non-attainment area failed to meet the
16 moderate attainment deadline. Failing to attain by
17 the applicable moderate attainment date requires that
18 non-attainment areas be reclassified to serious
19 non-attainment for the 2015 Ozone National Ambient Air
20 Quality Standard.

21 Because attainment status is based on
22 the previous year's ozone season, Delaware knew well
23 ahead of the attainment date that the Philadelphia
24 area would not meet the serious attainment deadline.

1 Therefore, Delaware, along with other states in the
2 non-attainment area, proactively requested voluntary
3 reclassification to serious non-attainment.

4 On July 30, 2024, the Environmental
5 Protection Agency approved Delaware's request to
6 re-designate New Castle County for the Philadelphia
7 non-attainment area as serious for the 2015 8-hour
8 Ozone National Ambient Air Quality Standard.

9 Areas reclassified to serious face more
10 stringent Clean Air Act requirements designed to
11 achieve attainment of the National Ambient Air Quality
12 Standard by no later than August 3, 2027.

13 Accordingly, the state air agencies in
14 the Philadelphia non-attainment area were required to
15 submit State Implementation Plan revisions and
16 implement requirements to satisfy the statutory and
17 regulatory requirements for serious areas for the 2015
18 Ozone National Ambient Air Quality Standard.

19 On August 15, 2025, Delaware formerly
20 requested under Section 107(d)(3)(D) of the Clean Air
21 Act that the Environmental Protection Agency revised
22 the boundaries of the Philadelphia non-attainment area
23 for the 2008 and 2015 Ozone National Ambient Air
24 Quality Standards.

1 Delaware requested the creation of a
2 standalone non-attainment area for New Castle County,
3 thereby removing Delaware from the existing
4 Philadelphia non-attainment area. The justification
5 for Delaware's re-designation request was twofold.

6 New Castle County has maintained
7 compliance with the 2015 Ozone National Ambient Air
8 Quality Standard since 2019, and data demonstrated
9 that the county does not contribute to ozone
10 violations within the Philadelphia non-attainment
11 area.

12 The purpose of the request for the
13 Environmental Protection Agency to revise the existing
14 Philadelphia non-attainment area boundaries was in
15 recognition of the fact that it was no longer
16 reasonable or scientifically justifiable for New
17 Castle County to be included in the larger
18 Philadelphia non-attainment area.

19 The requested revision to the areas
20 boundaries will provide Delaware with the flexibility
21 and independence needed to meet the Clean Air Act's
22 non-attainment area planning and emissions control
23 requirements and will promote more effective and
24 efficient air quality management in the region.

1 On June 4, 2026, the Environmental
2 Protection Agency issued a final rule creating a
3 standalone New Castle County Delaware non-attainment
4 area. In addition to the re-designation, the
5 Environmental Protection Agency also issued a clean
6 data determination for New Castle County for the 2015
7 and 2008 Ozone National Ambient Air Quality Standards,
8 which indicates the area is attaining the ozone
9 standards as a result of the clean data determination.

10 The State Implementation Plan
11 requirements related to attainment demonstration and
12 reasonable further progress provisions are suspended
13 for so long as the area continues to attain the
14 standard. Regarding reasonable further progress,
15 state schedule incremental reductions in air
16 pollutants that states guarantee to achieve the Clean
17 Air Act standards on time through the State
18 Implementation Plan.

19 This public hearing is to propose a
20 State Implementation Plan revision for the serious
21 classification requirements associated with the 2015
22 8-hour Ozone National Ambient Air Quality Standards
23 for the New Castle Delaware non-attainment area.

24 The major components of this State

1 Implementation Plan revision include Delaware's
2 updated 2017 Base Year Inventory. This inventory
3 establishes baseline air emissions of volatile organic
4 compounds, nitrogen oxides and carbon monoxide by
5 source category to support ozone air quality planning
6 and regulatory requirements.

7 While Delaware already has an approved
8 Base Year Inventory originally submitted to the
9 Environmental Protection Agency on November 6, 2020,
10 for the 2015 8-hour Ozone National Ambient Air Quality
11 Standard State Implementation Plan, this section
12 contains a revision of Delaware's 2017 Base Year
13 Inventory.

14 Other State Implementation Plan
15 revisions include previously approved control
16 measures, clean fuels vehicle program, and reasonable
17 available control technology, which is the lowest
18 emission limitation that a particular source is
19 capable of emitting by the application of control
20 technology that is reasonably available.

21 Transportation conformity requirements
22 are federal air requirements that ensure
23 transportation plans and projects do not undermine
24 efforts to meet the federal air quality standards. It

1 requires transportation plans to conform with the
2 mobile vehicle emission budgets that are set in the
3 State Implementation Plan.

4 Mobile budgets are the portion of the
5 allowable highway and transit vehicle emissions that
6 are created for the purpose of meeting reasonable
7 further progress milestones or demonstrating
8 attainment.

9 Since mobile budgets are a component
10 tied to the attainment date, no new mobile budgets
11 were set in this State Implementation Plan revision.
12 However, New Castle County remains subject to
13 previously approved mobile budgets, ozone, air quality
14 status and trends, analysis and performance, standard
15 modeling and certification of the enhanced Inspection
16 and Maintenance Program.

17 Performance standard certification is
18 Delaware's demonstration that the Vehicle Inspection
19 and Maintenance Program for New Castle County meets
20 the low enhanced performance standard for the serious
21 non-attainment area.

22 Inspection and maintenance programs
23 help reduce emissions of volatile organic compounds,
24 carbon monoxide and nitrogen oxides through

1 identifying high emitting vehicles. Because of the
2 clean data determination from the Environmental
3 Protection Agency, provisions related to attainment
4 demonstration and the scheduled incremental reductions
5 through reasonable further progress no longer apply to
6 New Castle County non-attainment area.

7 Delaware submitted its moderate ozone
8 State Implementation Plan to the Environmental
9 Protection Agency on March 4, 2024. Therefore, with
10 this action, Delaware is also submitting a letter to
11 the Environmental Protection Agency to withdraw the
12 following suspended components of the moderate ozone
13 State Implementation Plan.

14 Reasonable further progress revised
15 2017 Base Year Emissions Inventory, 2023 mobile
16 budgets for the transportation conformity, reasonably
17 available control measures, attainment demonstration,
18 control measures and contingency measures.

19 Contingency measures are specific
20 control measures that are required to be implemented
21 if a non-attainment area fails to meet reasonable
22 further progress, fails to meet any applicable
23 milestone, or fails to attain the National Ambient Air
24 Quality Standard by the applicable attainment date.

1 The Department would like to enter in
2 the list of exhibits as it appears on PowerPoint slide
3 20. These exhibits are also located on the public
4 hearing webpage. This completes the Department's
5 presentation. Thank you.

6 THE HEARING OFFICER: Thank you, Ms.
7 Schiliro. Before you go, the exhibits that were
8 proposed on the last PowerPoint slide, were there any
9 changes to the proposed exhibits since they were
10 posted on the hearing webpage?

11 MS. SCHILIRO: No. No changes.

12 THE HEARING OFFICER: Okay. Thank you.
13 I have received the electronic versions of the
14 proposed exhibits by the Department and I hereby mark
15 those proposed exhibits as Department's Exhibits 1
16 through 10.

17 (Department Exhibit 1 through Exhibit
18 10 were marked for identification.)

19 THE HEARING OFFICER: As I mentioned
20 previously, the Department received no registration
21 for public comment by 12 p.m. today. Therefore, there
22 will not be a verbal comment portion of this hearing.

23 Again, if you wish to submit public
24 comment in writing, please follow the instructions

1 that were given during my introductory remarks and is
2 also available on the screen for those who are joined
3 in virtually.

4 The hearing record will remain open
5 through October 7th to receive those comments. I want
6 to thank you all for attending tonight. The hearing
7 is now concluded at 6:23 p.m.

8 (Whereupon, at 6:23 p.m., the
9 proceeding was concluded.)
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CERTIFICATE

I, CARLO FLORIO, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



CARLO FLORIO

Notary Public in and for the
State of Delaware

CERTIFICATE OF TRANSCRIBER

I, PROMY ISLAM, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



PROMY ISLAM

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