

the computations under paragraph (b)(2)(ii) of this section.

(5) Where the Level I Wage or Level IV Wage provided under paragraphs (b)(2)(iii)(C)(1) through (3) of this section exceeds the Level I Wage or Level IV Wage provided under paragraph (b)(2)(ii) of this section in a given period, the Level I Wage or Level IV Wage for that period shall be the wage provided under paragraph (b)(2)(ii) of this section, and the Level II Wage and Level III Wage for that period shall be adjusted by applying the formulae provided in paragraphs (b)(2)(ii)(B) and (C) of this section.

(D) Where a Level IV Wage provided under paragraph (b)(2)(iii) of this section cannot be computed due to wage values exceeding the uppermost interval of the OES wage interval methodology, the OFLC Administrator shall determine the Level IV Wage using the current hourly wage rate applicable to the highest OES wage interval for the specific occupation and geographic area or the arithmetic mean of the wages of all workers for the most specific occupation and geographic area available, whichever is highest.

(iv) The OFLC Administrator will publish, at least once in each calendar year, on a date to be determined by the OFLC Administrator, the prevailing wage levels under paragraphs (b)(2)(ii) and (iii) of this section as a notice posted on the OFLC website.

(3) If the employer provides a survey acceptable under paragraph (g) of this section, the prevailing wage for labor certification purposes shall be the arithmetic mean of the wages of workers similarly employed in the area of intended employment. If an otherwise acceptable survey provides a median and does not provide an arithmetic mean, the prevailing wage applicable to the employer's job opportunity shall be the median of the wages of workers similarly employed in the area of intended employment.

\* \* \* \* \*

**Suzan G. LeVine,**

*Principal Deputy Assistant Secretary for Employment and Training, Labor.*

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**BILLING CODE 4510-FP-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2021-0069; FRL-10023-62-Region 3]

#### **Air Plan Approval; Delaware; Nonattainment New Source Review Requirements for 2015 8-Hour Ozone National Ambient Air Quality Standard**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC). The revision fulfills Delaware's nonattainment new source review (NNSR) SIP element requirement for the 2015 8-hour ozone National Ambient Air Quality Standard (NAAQS). EPA is approving these revisions to the Delaware SIP in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This final rule is effective on June 14, 2021.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2021-0069. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Amy Johansen, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2156. Ms. Johansen can also be reached via electronic mail at [johansen.amy@epa.gov](mailto:johansen.amy@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On March 24, 2021 (86 FR 15634), EPA published a notice of proposed rulemaking (NPRM) for the State of

Delaware. In the NPRM, EPA proposed approval of Delaware's certification that its existing NNSR program, covering the Delaware portion of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE (Philadelphia Area) nonattainment area (which includes New Castle County) for the 2015 8-hour ozone NAAQS, is at least as stringent as the requirements at 40 Code of Federal Regulations (CFR) 51.165, as amended by the final rule titled "Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements" (SIP Requirements Rule), for ozone and its precursors. See 83 FR 62998 (December 6, 2018). The formal SIP revision was submitted by Delaware on August 3, 2020.

##### **II. Summary of SIP Revision and EPA Analysis**

Delaware's SIP approved NNSR program, established in Title 7 Delaware Administrative Code (DE Admin Code) 1125 (*Requirements for Preconstruction Review*), applies to the construction and modification of major stationary sources in nonattainment areas. In its August 3, 2020 SIP revision, Delaware certifies that the version of Title 7 DE Admin Code Section 1125 approved in the SIP is at least as stringent as the Federal NNSR requirements for the Philadelphia Area.<sup>1</sup> EPA last approved Delaware's major NNSR program as being consistent with Federal NNSR requirements on August 12, 2019. 84 FR 39758 (August 12, 2019). In that action, EPA approved DNREC's 2008 Ozone Certification SIP revision for NNSR.

Delaware has chosen not to include certain optional NNSR provisions that EPA could approve, pertaining to emissions change of VOC in extreme nonattainment areas and emission reduction credits. Delaware's choice not to include these provisions does not affect EPA's determination regarding the approvability of its August 3, 2020 submittal, and they were not discussed in this rule.<sup>2</sup>

<sup>1</sup> On October 20, 2016, EPA disapproved a proposed SIP revision that sought to include additional ERC provisions, adopted by Delaware on December 11, 2016, into the Delaware SIP, specifically, 7 DE Admin Code 1125 Sections 2.5.5 and 2.5.6. 81 FR 72529. Since EPA disapproved these provisions, the previously approved provisions that EPA approved into Delaware's SIP on October 2, 2012 remain applicable Federal requirements. 77 FR 60053.

<sup>2</sup> DNREC provided information regarding anti-backsliding in its August 3, 2020 SIP submittal to EPA, which was not a requirement of EPA's 2015 Ozone SIP Requirements Rule. See 83 FR 62998 (December 6, 2018). EPA noted in the 2015 Ozone SIP Requirements Rule that it would address anti-

Other specific requirements and the rationale for EPA's proposed action are explained in the NPRM and will not be restated here. One supportive comment was received for this action, which can be found in Docket ID Number EPA-R03-OAR-2021-0069.

### III. Final Action

For the reasons stated in the NPRM, EPA has concluded that Delaware's submission fulfills the 40 CFR 51.1114 revision requirements, meets the requirements of CAA sections 110 and 172 and the minimum SIP requirements of 40 CFR 51.165. EPA is approving Delaware's August 3, 2020 SIP revision addressing the NNSR requirements for the 2015 8-hour ozone NAAQS for the Philadelphia Area to the Delaware SIP.

### IV. Statutory and Executive Order Reviews

#### A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

backsliding in a future rulemaking action; therefore, EPA will not be acting on anything related to anti-backsliding in this action.

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it

is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

#### C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 12, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action pertaining to Delaware's NNSR program and the 2015 8-hour ozone NAAQS may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 7, 2021.

**Diana Esher,**

*Acting Regional Administrator, Region III.*

40 CFR part 52 is amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for part 52 continues to read as follows:

*Authority:* 42 U.S.C. 7401 *et seq.*

#### Subpart I—Delaware

- 2. In § 52.420, the table in paragraph (e) is amended by adding an entry for "2015 8-Hour Ozone Certification for Nonattainment New Source Review (NNSR)" at the end of the table to read as follows:

#### § 52.420 Identification of plan.

\* \* \* \* \*

(e) \* \* \*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
2015 8-Hour Ozone Certification for Non-attainment New Source Review (NNSR).	Delaware portion of the Philadelphia-Wilmington-Atlantic City nonattainment area (which includes New Castle County).	08/03/20	5/13/21, [Insert Federal Register citation].	

[FR Doc. 2021-10039 Filed 5-12-21; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2020-0327; FRL-10021-93-Region 1]

#### Air Plan Approval; Maine; Infrastructure State Implementation Plan Requirements for the 2015 Ozone Standard and Negative Declaration for the Oil and Gas Industry for the 2008 and 2015 Ozone Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Maine. This revision addresses the infrastructure requirements of the Clean Air Act (CAA or Act) for the 2015 ozone National Ambient Air Quality Standards (NAAQS). This action includes all elements of these infrastructure requirements except for the “Good Neighbor” or “transport” provisions, which will be addressed in a future action. EPA is also approving a State of Maine submittal of amendments to 06-096 CMR Chapter 110, “Ambient Air Quality Standards,” as well as a submittal of statutory conflict-of-interest provisions in 38 Maine Revised Statutes Annotated (MRSA) Section 341-A and 341-C; resulting in the conversion of a number of previous conditional approvals. In addition, EPA is approving SIP revisions submitted by Maine that provide the state’s determination, via a negative declaration for the 2008 and 2015 ozone standards, that there are no facilities within its borders subject to EPA’s 2016 Control Technique Guideline (CTG) for the oil and gas industry. This action is being taken under the Clean Air Act.

**DATES:** This rule is effective on June 14, 2021.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2020-0327. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID-19.

**FOR FURTHER INFORMATION CONTACT:** Alison C. Simcox, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square—Suite 100, (Mail code 05-2), Boston, MA 02109-3912, tel. (617) 918-1684, email [simcox.alison@epa.gov](mailto:simcox.alison@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

#### Table of Contents

- I. Background and Purpose
- II. Final Action
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#### I. Background and Purpose

On January 22, 2021 (86 FR 6591), EPA published a Notice of Proposed Rulemaking (NPRM) to approve most elements of a Maine SIP revision addressing the infrastructure requirements of Clean Air Act (CAA or Act) sections 110(a)(1) and 110(a)(2)—excluding the interstate transport provisions—for the 2015 ozone National Ambient Air Quality Standards

(NAAQS). This NPRM also proposed to approve into Maine’s SIP amendments to state regulations at 06-096 CMR Chapter 110, “Ambient Air Quality Standards,” and several conflict of interest (COI) provisions in Maine’s statutes, which support the state’s infrastructure submittal for the 2015 ozone NAAQS. The NPRM also proposed, based on the Chapter 110 amendments and the COI provisions, to convert to full approval a number of EPA conditional approvals of earlier Maine infrastructure SIP submissions for other NAAQS. The NPRM also proposed to approve a Maine SIP submission that provides the state’s determination, via a negative declaration, that there are no facilities within its borders subject to EPA’s 2016 Control Technique Guideline (CTG) for the oil and gas industry for the 2008 and 2015 ozone standards.

The NPRM addressed the following submissions from the Maine Department of Environmental Protection (Maine DEP): A February 14, 2020, submission addressing infrastructure requirements for the 2015 ozone NAAQS; a May 28, 2019, submission of amendments to the aforementioned regulations; a September 4, 2019, submission of several COI provisions in Maine state law; and a May 14, 2020, negative declaration for the 2016 CTG for the Oil and Natural Gas Industry for the 2008 and 2015 ozone standards.

The rationale for EPA’s proposed action is given in the NPRM and will not be restated here. No public comments were received on the NPRM.

#### II. Final Action

EPA is approving most of the elements of the infrastructure SIP submitted by Maine on February 14, 2020, for the 2015 ozone NAAQS. Today’s action does not include the “good neighbor” provisions (*i.e.*, CAA section 110(a)(2)(D)(i)), also known as a state’s Transport SIP. EPA will address Maine’s Transport SIP for the 2015 ozone NAAQS in a future action.

EPA also is approving, and incorporating into the Maine SIP, the following regulation, submitted on May