

# Proposal

## **DELAWARE STATE IMPLEMENTATION PLAN**

### **Administrative and Non-Substantive Changes in Regulations Governing the Control of Air Pollution**

Submitted To  
U.S. Environmental Protection Agency

By

Delaware Department of Natural Resources and  
Environmental Control



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## Acronym List

AQM	-	Air Quality Management
AQMS	-	Air Quality Management Section of DNREC
CAA	-	Clean Air Act
CAAA	-	Clean Air Act Amendments of 1990
CFR	-	Code of Federal Regulations
DAWM	-	Division of Air and Waste Management of DNREC
DNREC	-	Delaware Department of Natural Resources and Environmental Control
EPA	-	United States Environmental Protection Agency
FR	-	Federal Register
NAAQS	-	National Ambient Air Quality Standard
NOx	-	Nitrogen Oxides
SIP	-	State Implementation Plan
VOC	-	Volatile Organic Compound

## 1. Introduction

### 1.1 Background

In the past three decades or so, Delaware has developed 48 regulations for ambient air quality management. Under Section 110 of the Clean Air Act (CAA), an air quality management (AQM) regulation, when relied upon to attain or maintain the national ambient air quality standards (NAAQSs), must go through public review-comment and hearing process, and then be submitted to US Environmental Protection Agency (EPA) for approval as a state implementation plan (SIP) revision.

Title 29, Chapter 101 of the Delaware Codes (29 **Del. C.**, Ch 101) requires that regulatory agencies in Delaware develop and adopt regulations, and publish the regulations in Delaware Register of Regulations through the Registrar's Office under Division of Research of the General Assembly. The Registrar's Office has developed guidelines and drafting manuals for Delaware regulations. The latest edition of drafting and style manual, entitled "Delaware Manual for Drafting Regulations," was issued as Delaware Administrative Code in March 2006 (see Appendix A of this document, hereafter referred to as "the 2006 drafting manual" or simply as "the 2006 Manual").

Since the 2006 drafting manual was issued, several Delaware AQM regulations have been formatted to comply with the standards specified in the manual. However, a majority of the Delaware AQM regulations have not been updated.

### 1.2 Purpose and Scope

Among the 48 Delaware AQM regulations, 32 regulations have been approved by EPA as Delaware state implementation plan (SIP) revisions, and are listed in 40 CFR Part 52 Subpart I (hereafter referred to as SIP regulations). They are:

- Regulation 1 "Definitions and Administrative Principles";
- Regulation 1102\* "Permits";
- Regulation 3 "Ambient Air Quality Standards";
- Regulation 4 "Particulate Emissions From Fuel Burning Equipment";
- Regulation 5 "Particulate Emissions From Industrial Process Operations";
- Regulation 6 "Particulate Emissions From Construction and Materials Handling";
- Regulation 7 "Particulate Emissions From Incineration";
- Regulation 8 "Sulfur Dioxide Emissions From Fuel Burning Equipment";
- Regulation 9 "Emissions of Sulfur Compounds From Industrial Operations";
- Regulation 10 "Control of Sulfur Dioxide Emissions—Kent and Sussex Counties";
- Regulation 11 "Carbon Monoxide Emissions From Industrial Process Operations New Castle County";

- Regulation 12 “Control of Nitrogen Oxide Emissions”;
- Regulation 1113\* “Open Burning”;
- Regulation 14 “Visible Emissions”;
- Regulation 15 “Air Pollution Alert and Emergency Plan”;
- Regulation 16 “Sources Having an Interstate Air Pollution Potential”;
- Regulation 17 “Source Monitoring, Recordkeeping and Reporting”;
- Regulation 23 “Standards of Performance for Steel Plants: Electric Arc Furnaces”;
- Regulation 1124\* “Control of Volatile Organic Compound Emissions”;
- Regulation 1125\* “Requirements for Preconstruction Review” (Sections 1, 2 and 3);
- Regulation 26 “Motor Vehicle Emissions Inspection Program”;
- Regulation 27 “Stack Heights”;
- Regulation 31 “Low Enhanced Inspection and Maintenance Program”;
- Regulation 1132\* “Transportation Conformity”;
- Regulation 35 “Conformity of General Federal Actions to the State Implementation Plans”;
- Regulation 37 “NOx Budget Program”;
- Regulation 39 “Nitrogen Oxides (NOx) Budget Trading Program”;
- Regulation 40 “Delaware’s National Low Emission Vehicle (NLEV) Regulation”;
- Regulation 41 “Limiting Emissions of Volatile Organic Compounds From Consumer and Commercial Products”;
- Regulation 42 “Specific Emission Control Requirements (Section 1)”;
- Regulation 1144\* “Control of Stationary Generator Emissions”.

[\* Indicating a regulation (or a section or sections therein) that has been revised after the issuance of the 2006 drafting manual. The prefix of “11” in “11##” in a regulation title number represents Delaware administrative code for Air Quality Management Section. See 2.2 of this SIP revision.]

In addition, the following regulations have been submitted to EPA as SIP revisions and pending EPA’s approvals:

- Regulation 1143 “Heavy Duty Diesel Engine Standards”;
- Regulation 1145 “Excessive Idling of Heavy Duty Vehicles”;
- Regulation 1146 “Electric Generating Unit (EGU) Multi-Pollutant Regulation”;
- Regulation 1148 “Control of Stationary Combustion Turbine Electric Generating Unit Emissions”.

The purpose of this SIP revision is to make all Delaware SIP regulations (i.e., both listed and not-yet listed in 40 CFR Part 52 Subpart I) consistent with the 2006 Manual. In addition, some non-substantive changes and corrections of errors have been made. Exclusively for this SIP revision:

- Administrative or editorial changes are those under the administrative authority granted to Delaware Registrar’s Office by 29 **Del.C.** Ch 1134 and are applicable to all Delaware regulations for consistency purpose.

Therefore, all Delaware air regulations, both existing ones and future ones, shall follow.

- Non-substantive changes are those made for clarification and consistency purposes and do not alter or amend the intent or meaning of the subject regulation.
- Editorial changes also include correction of errors due to typos or misprints when a regulation was developed or revised to its current version.

The above changes are made on the current AQM regulations, and reflected by “~~strikeouts~~” for deletions and “underlines” for additions, as required by the 2006 Manual. After the above changes are made, the regulations and relevant terms (languages, codes, styles, formats, etc.) are defined as being “revised” in this SIP revision. All revised SIP regulations are presented in Appendix B of this SIP revision.

It should be pointed out that the administrative changes, non-substantive changes and corrections of errors do not alter regulatory features of individual regulations, such as effective date, applicability, regulatory limit and requirement, compliance schedule, enforcement procedures, etc.

### 1.3 Exclusions

The following five SIP regulations (or sections) are not included in this SIP revision:

- Regulation 31 “Low Enhanced Inspection and Maintenance Program”;
- Regulation 37 “NO<sub>x</sub> Budget Program”;
- Regulation 41 “Limiting Emissions Of Volatile Organic Compounds From Consumer And Commercial Products (Section 2)”;
- Regulation 42 “Specific Emission Control Requirements (Section 2)”.

Regulations 31 and 41 (Section 2) are not included because they are currently under substantive revision. Regulation 1142 (Section 2) is not included because it is under consideration for revision. The administrative and non-substantive changes in those regulations (or sections) will be made in their revisions. Regulation 37 is not included because it expired in 2002.

Although the above regulations are not included in this SIP revision, they shall be referenced in the future under the new title code of “**7 DE Admin Code 1100.**” For example, Regulation 31 will be referenced as “**7 DE Admin Code 1131**”, instead “Regulation 31.” The new title codes and numbers are used for consistency purpose. See discussions in 2.2 and 2.5 of this SIP document.

Many current AQM regulations have citations of the federal laws and documents (such the Clean Air Act, the Federal Register, and the Code of Federal Regulations). Some regulations contain appendixes that are adopted directly from federal documents, and documents of other state agencies, or other

sources. The administrative changes, non-substantive changes and corrections under this SIP revision do not apply to contents of those citations and the appendixes directly from the aforementioned other sources.

#### 1.4 Non-SIP Regulations

The following AQM regulations are not included in 40 CFR Part 52 Subpart I list, but have been adopted by Delaware to deal with air quality issues not directly related to NAAQSs:

- Regulation 18 “Particulate Emissions from Grain Handling Operations”;
- Regulation 19 “Control of odorous Contaminants”;
- Regulation 20 “New Source Performance Standards”;
- Regulation 21 “Emission Standards for hazardous Air Pollutants”;
- Regulation 22 “Restriction on Quality of Fuel in Fuel Burning Equipment”;
- Regulation 1125\* “Requirements for Preconstruction Review” (Section 4);
- Regulation 28 “Control of Toxic Air Contaminants-Reserved”;
- Regulation 29 “Emissions from Incineration of Infectious Waste”;
- Regulation 30 “Title V State Operating Permit Program”;
- Regulation 33 “Motor Vehicle Pressure Test and Emission Control Device Inspection Program” (Replaced by Regulation 31);
- Regulation 34 “Emission Banking and Trading Program”;
- Regulation 36 “Acid Rain Program”;
- Regulation 1138 “Emission Standards for Hazardous Air Pollutants for Source Categories”;
- Regulation 47 Reserved.

The above regulations are not considered as Delaware SIP regulations. Therefore, they are not included in this SIP revision, although the administrative and non-substantive changes in those regulations are conducted along with this SIP revision for consistency purposes. Delaware Registrar’s Office is in charge of updating those regulations under 29 **Del. C.**, Ch 1134. The proposed revisions of those non-SIP regulations can be reviewed at:

<http://regulations.delaware.gov/AdminCode/title7/1000/1100/index.shtml#TopOfPage>

Comments on those non-SP regulations can be addressed to Jeffrey Hague, Registrar of Regulations, Delaware Legislative Council, at e-mail address [Jeffrey.Hague@state.de.us](mailto:Jeffrey.Hague@state.de.us), or sent to Office of Registrar of Regulations, P.O. Box 1401, Dover, DE 19903.

#### 1.5 Responsibility and Contacts

The agency with direct responsibility for preparing and submitting this SIP revision is Delaware Department of Natural Resources and Environmental Control (DNREC), Division of Air and Waste Management (DAWM), Air Quality

Management Section (AQMS), under Section Administrator, Ali Mirzakhali. The working responsibility for Delaware air quality planning and regulation development falls within AQMS' Planning Branch, under Program Manager Ronald A. Amirikian. Frank F. Gao, Ph. D. and P.E., of the Planning Branch, is the project leader and principal author of this SIP revision. Questions and comments should be addressed to either Ronald A. Amirikian at (302)739-9402 or [Ronald.Amirikian@state.de.us](mailto:Ronald.Amirikian@state.de.us), or to Frank F. Gao at (302)323-4542 or [Frank.Gao@state.de.us](mailto:Frank.Gao@state.de.us), or sent to AQMS, 156 South State Street, Doer, DE 19901.

## 2. Administrative Changes

### 2.1 Font Face and Size

The 2006 Manual specifies that all Delaware regulations be drafted in Arial font face and 12-point font size. Accordingly, all AQM SIP regulations are converted to Arial font face and 12-point font size under this SIP revision. This font-change is not reflected with strikeouts and underlines in the revised regulations, since such change does not alter any meaning of the subject regulations in any aspect.

### 2.2 Regulation Title Coding and Numbering

Historically, Delaware AQM regulations have been grouped in “Delaware Regulations Governing the Control of Air Pollution,” and numbered from 1 to 48 (Arabic numbers) without an indentifying or administrative code. Under the current Delaware administrative coding system, all AQM regulations should be under “Title 7 DNREC, 1100 Air Quality Management Section” and be coded with four digits in a format of “11##”, where the first two digits “11” specify “AQMS” and the second two digits “##” are the regulation numbers. According to this requirement, titles of all Delaware AQM regulations are recoded as follows, using Regulation No. 1 as an example, with strikeouts representing deletions and underlines for additions:

**Title 7 DNREC**  
**1100 Air Quality Management Section**

**REGULATION NO. 1**  
**1101 DEFINITIONS AND ADMINISTRATIVE PRINCIPLES**

Under this SIP revision, all revised regulations use a bold-face text for their titles. In case that a current title used a regular-face text, this regular-to-bold change is not indicated by using strikeouts and underlines, since such change does not alter any meaning of the title in any aspect.

### 2.3 Format of Definitions

Various formats for definitions of terms have been used in Delaware AQM regulations. According to the 2006 Manual, the following format has been adopted as a standard format in all AQM regulations under this SIP revision, using “heat input” as an example, with strikeouts representing deletions and underlines for additions:

**“Heat input”** ~~HEAT INPUT~~: The means the potential thermal energy resulting from the complete combustion of any fuel.

In some regulations, such as in Regulation No. 12, the terms to be defined are not bolded, but are in the standard format already. In those cases, the

change from un-bolded terms to bold-face terms are not identified by strikeouts and underlines, since such change does not alter any meaning of the terms themselves and definitions that follow.

## 2.4 Section and Subsection Numbering

According to the format provided in the 2006 Manual, two changes are made with respect to sections in a regulation under this SIP revision: (1) All prefixes of "Section-" in section title lines are deleted; (2) Sections are numbered using a consistent format of Arabic numeral "#.0".

A majority of the current AQM regulations have subsections of various levels, and use different symbols for subsections, such as lower-case letters (a, b,...), Roman numbers (i, ii,...), Arabic numbers in parenthesis [(1), (2), ... ], upper-case letters (A, B, ...), and paired lower-case letters (aa, bb, ...). According to the format provided in the 2006 Manual, all those subsection symbols in the current AQM regulations are replaced by Arabic numbers under this SIP revision.

The following is an example from Regulation 24, demonstrating changes in numbering of sections and subsections, with strikeouts representing deletions and underlines for additions:

### ~~Section 4~~

#### 4.0 **Compliance Certification, Recordkeeping, and Reporting Requirements for Coating Sources**

4.1 ~~a~~-To establish the records...

4.2 ~~b~~-Requirements for coating sources...

4.2.1 ~~4~~-Certification. By November 15, 1993, the owner or operator of a facility... by providing all of the following:

4.2.1.1 ~~i~~-The name and location of the facility.

4.2.1.2 ~~ii~~-The address and...

According to the format provided in the 2006 Manual, the bold-face is adopted for section titles in all revised regulations. In those cases where a regular-to-bold face change is made, the change is not identified by strikeouts and underlines, since such change does not alter any meaning of the section title in any aspect.

## 2.5 Citations in Regulations

According to the 2006 Manual, all AQM regulations should be cited as Delaware Administration Code by title and regulation number (for code titles and numbers, see 2.2 of this SIP revision). Therefore, citations of another regulation

are revised to the following standard format, using an excerpt from Regulation No. 2 as an example, with strikeouts representing deletions and underlines for additions:

... in an operation permit issued pursuant to ~~Regulation No. 30~~ 7 DE Admin Code 1130.

In several AQM regulations, Delaware's solid waste regulation is cited. According to the 2006 Manual, and the latest version of that regulation, the citation is changed to:

~~...the Solid Waste Regulations~~ 7 DE Admin Code 1301, Regulations Governing Solid Waste.

Another common citation in the AQM regulations is the Delaware Code. According to the 2006 Manual, the following standard format is adopted in all AQM regulations under this SIP revision, using Title 29 of Delaware Code, Chapter 80 as an example:

...as defined in 29 **Del. C.**, Ch 80 ...

In cases where an un-bolded "Del. C." is changed to a bold "**Del. C.**", the strikeouts and underlines (i.e., ~~Del. C.~~ **Del. C.**) are not used in the revised regulations, since such change does not alter any meaning of the subject in any aspect. In addition, the symbol "§" is used when a section of the Delaware Code is cited.

## 2.6 Other Changes

Based on the specifications in the 2006 Manual, the following changes are also made in all AQM regulations under this SIP revision, with strikeouts representing deletions and underlines for additions:

### 2.6.1 Changing "and/or" to "or".

Example: ...previous permit ~~and/or~~ application...

### 2.6.2 Changing "word(s)" to "word or words".

Example: ... control device~~(s)~~ or devices...

2.6.3 Spelling out numbers from 1 to 9, except those followed by specifying symbols such as %, °C, °F, and those used for special terms such as "the 1-hour ozone standard." However, numerals between 1.0 and 9.0 are not spelled out, due to the precision meaning held by the decimal place.

2.6.4 Using Arabic numbers for 10 and greater, except when used at the beginning of a sentence.

2.6.5 Changing word “percent” following a numeral to “%”.

Examples for the above three changes include:

... ~~3~~ three years after the effective date ...

... ~~5%~~ percent of the emissions ...

... ~~twenty percent~~ 20% of the emissions ...

2.6.6 Change “deg C and deg F” to “°C and °F”, respectively.

Example: ...at 343 ~~deg. C~~ °C (650 ~~deg. F~~ °F) or higher ...

2.6.7 Change dates in the text, for example, from “12/02/94” to “December 2, 1994.”

This change is made according to the 2006 Manual. For those dates in front of a section title line, see 3.4 of this SIP revision.

### 3. Non-Substantive Changes

#### 3.1 Addition and Deletion of Words

##### 3.1.1 Additions

In a current AQM regulation, its sections and subsections may be referenced frequently in the regulation itself. In addition, the federal Clean Air Act (the Act) may be cited frequently as well. To ensure precise citations and references, the terms “of (or in) this regulation” and “of (or in) the Act” are added wherever they seem necessary and adequate. See examples in 3.1.2 of this SIP revision.

##### 3.1.2 Deletions

In the current regulations, terms such “section, subsection, part, subpart, paragraph, and subparagraph” are used extensively, but not consistently and properly. For example, the term “section” is used to denote not only sections, but oftentimes subsections and even sub-subsections. In addition, the term “paragraph” is used for sections and subsections which contain multiple paragraphs. Under this SIP revision, terms “section, subsection, part, subpart, paragraph, and subparagraph” are no longer used in front of section or subsection numbers. Examples include:

...pursuant to ~~section 5(a)(i)(1)A~~ 5.1.1.1.1 of this regulation...  
(See also 2.4 of this SIP revision.)

... to meet the requirements of Section 112(i)(1) of the Act...  
(See also 1.3 of this SIP revision.)

##### 3.1.3 Deleting Specific Section and Subsection Numbers

There are cases in the current regulations where there is only one subsection in a section. This single subsection is no longer numbered under this SIP revision. See example below, where “6.1” is deleted since it was to denote a single subsection in Section 6.

~~Section 6—~~

#### **6.0 RACT PROPOSALS**

~~6.1~~The RACT proposal submitted in accordance with...

#### 3.2 Changing *Italic* Font Style to Regular Style

In some current regulations, the *italic* font is used for the purpose of identifying terms that are defined in the subject regulations. In other regulations, the italic font is used for other purposes, such as emphasis. Under this SIP revision, the *italic* font is no longer used. This change is not indicated by

strikeouts and underlines (e.g., ~~emissions~~ emissions) in the revised regulations, since such change does not alter any meaning of the terms themselves and their contexts in any aspect.

### 3.3 Renumbering Tables and Equations

Tables or equations in the current AQM regulations are numbered in various ways. Under this SIP revision, a standard format of “X-Y” is adopted for all tables and equations, with X denoting a section and Y denoting table or equation order in that section. For example, the following changes are made in Section 7 of Regulation 17 and Section 1 of Regulation 41, for table number and equation number, respectively:

TABLE ~~7.2~~—7-1. ESTIMATED EMISSIONS METHOD CODE

1.6.1.1 ... Determine the VOC content using equation 1-1 as follows:

$$\text{VOCContent} = \frac{W_s - W_w - W_{ec}}{V_m - V_w - V_{ec}} \quad (1-1)$$

When tables or equations appear in an appendix, they are also numbered with the standard format of “X-Y”, where X denoting the appendix (A, B, ...etc. See 3.5 of this SIP revision) and Y denoting table or equation order in the appendix. For example, the 3<sup>rd</sup> equation in **Appendix A** is numbered as “A-3”.

### 3.4 Dates Associated with Section Titles

Historically, all Delaware AQM regulations have placed a date, in the format of “mm/dd/yy” or “mm/dd/yyyy,” immediately in front of or after a section title, indicating the date when the subject section was adopted in its latest version. Those dates are mainly for record purpose. It is oftentimes necessary to revise or update only individual section or sections, but not the whole regulation. Therefore, new requirements and supporting data are reflected only in the newly-adopted section or sections. It is determined, under this SIP revision, that those dates are maintained in all AQM regulations, in a consistent format of “mm/dd/yyyy.”

### 3.5 Appendixes

#### 3.5.1 Numbering Appendixes

Appendixes in a regulation are numbered using capital letters (A, B, ...) under this SIP revision. In Regulation 24, the current appendixes are numbered with capital letters in double quotation marks (e.g., Appendix “A”). All appendixes in Regulation 24 are renumbered with un-quoted capital letters under this SIP revision, without strikeouts and underlines (e.g., “A” A).

In addition, all appendixes of AQM regulations are identified using bold-face (i.e., **Appendix**) under this SIP revision, to distinguish them from appendixes of other documents cited in the AQM regulations.

### 3.5.2 Footnotes in Appendixes

According to the 2006 Manual, footnotes should be presented at the end of a regulation. For appendixes, however, footnotes are placed at the end of each appendix under this SIP revision. For example, footnotes used in an appendix of Regulation 24 are presented at the end of the subject appendix, instead of at the far end of the entire regulation.

### 3.5.3 References in Appendixes

References in an appendix are no longer denoted by superscripts (i.e., <sup>1,2</sup>, ...) under this SIP revision. Instead, a directing text in parenthesis “(see # of this appendix)” is used, where “#” is the order number of the reference listed at the end of the appendix.

## 3.6 Other Changes

Other non-substantive changes are made under this SIP revision, mainly for consistency and clarification purposes. The changes are indicated by strikeouts and underlines, and are self-explanatory. The following is an example:

~~12.8 through 12.10 [Reserved]~~

12.8 [Reserved]

12.9 [Reserved]

12.10 [Reserved]

#### 4. Correction of Errors

Correction of errors under this SIP revision is self-explanatory. For example, the following correction is made in 2.3 of Regulation 9:

...shall not apply... to petroleum storage and transfer facilities.

Examples of other self-explanatory corrections under this SIP revision include:

- Correcting "CO2" to "CO<sub>2</sub>";
- Correcting "cm3" to "cm<sup>3</sup>";
- Correcting "the 31st" to "the 31<sup>st</sup>".

The above superscript or subscript corrections are not indicated with strikeouts and underlines in this SIP revision, since such corrections do not alter any meaning of the subjects in any aspect.

## 5. Appendixes

- A. *Delaware Manual for Drafting Regulations*, March 2006 Edition, Registrar's Office, Division of Research of the General Assembly, Dover, DE. Available at

<http://regulations.delaware.gov/documents/drafting&stylemanual.pdf>

- B. Collection of Revised Delaware SIP Regulations. Available at

<http://regulations.delaware.gov/register/july2008/proposed/index.shtml#ToPOfPage>

Under: DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL