UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

OCT 18 2016

Mr. Ali Mirzakhalili, Director
Division of Air and Waste Management
Delaware Department of Natural Resources
and Environmental Control
655 South Bay Road, Suite 5N
Dover, Delaware 19901

Dear Mr. Mirzakhalili:

Thank you for the opportunity to review Delaware's proposed state implementation plan (SIP) revision concerning the following seven regulations that were identified as inadequate in the U.S. Environmental Protection Agency's (EPA) June 12, 2015 Startup, Shutdown, and Malfunction (SSM) SIP Call (*see* 80 FR 33840): 7 DE Admin. Code 1104; 7 DE Admin. Code 1105; 7 DE Admin. Code 1108; 7 DE Admin. Code 1109; 7 DE Admin. Code 1114; 7 DE Admin. Code 1124; and 7 DE Admin. Code 1142. EPA does not have any comments on 7 DE Admin. Code 1124 or 7 DE Admin. Code 1142, and is separately evaluating 7 DE Admin. Code 1108 as that was submitted to EPA previously in a separate SIP revision submittal. The comments below are for the four remaining Delaware regulations. Please enter these comments into the public record.

For each provision that a state is seeking to remove from the SIP, or to revise in the SIP, a demonstration to address Clean Air Act (CAA) section 110(l) and, where applicable, also address CAA section 193, should be submitted as part of the SIP submittal to EPA. *See* 80 FR 33975 (June 12, 2015). CAA section 110(l) provides that EPA shall not approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA. Additionally, CAA section 193 provides that EPA shall not approve a SIP revision if the revision is for any area which is a nonattainment area for any pollutant prior to November 15, 1990 unless the modification insures equivalent or greater emission reductions. EPA has reviewed Delaware's proposed SIP revision, which includes statements intended to address the CAA section 110(l) requirement but does not address CAA section 193. EPA has the following comments on the proposed SIP revisions:

Regulation 1104: Delaware has proposed a revised Regulation 1104 for the SIP. Although the emission limit is not being changed, the averaging time is being changed from a two-hour average to a 30-day rolling average. Delaware has provided a statement that this change will not result in any increase in emissions on a tons per year basis, but has not addressed whether changes to the averaging period affect the emissions of any criteria pollutant. EPA does not

agree that a proper evaluation of the impacts of a change of averaging period is limited to consideration solely of emissions on an annual basis. A more robust explanation and analysis must be provided to support your conclusion and address the CAA section 110(l) requirement that this revision will not interfere with attainment or reasonable further progress nor any other applicable requirement of the CAA. At a minimum, Delaware should explain how this change will not impact attainment and maintenance of the national ambient air quality standards (NAAQS) as well as explain how this change meets the applicable legal requirements of the CAA including both sections 110(l) and 193.

Regulation 1105: Delaware has proposed a revised Regulation 1105 for the SIP. Although the emission limit is not being changed, a 30-day rolling averaging time is being added. Delaware has provided a statement that this change will not result in any increase in emissions on a tons per year basis, but has not addressed whether changes to the averaging period affect the emissions of any criteria pollutant. EPA does not agree that a proper evaluation of the impacts of a change of averaging period is limited to consideration solely of emissions on an annual basis. A more robust explanation and analysis should be provided to support your conclusion in order to meet the CAA 110(l) requirement. Delaware should explain that this change will not impact attainment and maintenance of the NAAQS, as well as explain how this change meets the applicable legal requirements of the CAA, including CAA section 193. Furthermore, EPA notes a numbering typo under section 2.2 of the draft SIP submission. The subsections should be numbered 2.2.1 and 2.2.2, not 2.1.1 and 2.1.2.

Regulation 1109: Delaware is proposing to remove Regulation 1109 from the SIP. To address CAA section 110(l), Delaware simply states that the removal will not result in any increase in emissions on a ton per year basis and states that existing federal requirements, such as New Source Performance Standards (NSPS), are adequate to ensure attainment and maintenance of sulfur related NAAQS in Delaware without further explanation. Delaware's explanation and reliance upon unnamed NSPS is insufficient. First, some NSPS may contain SSM exemptions especially if EPA has not recently revised them. EPA is reviewing such NSPS for any such exemptions for compatibility with EPA policy. In addition, the NSPS do not cover all sources of sulfur dioxides or sulfur oxides as they apply only to new and modified sources. Delaware provided no further explanation on which specific NSPS or other federal requirement covers or regulates the universe of sources addressed by Regulation 1109 in Delaware. Regulation 1109 appears applicable to a narrow source category that emits sulfur compounds. Additionally, Delaware has provided a statement that this change will not result in any increase in emissions on a tons per year basis, but has not addressed whether the removal of Regulation 1109 will affect the emission of any criteria pollutant. A more robust explanation and analysis should be provided to support your conclusion in order to meet the CAA 110(l) requirement. Delaware should explain that this change will not impact attainment and maintenance of the NAAQS, as well as explain how this change meets the applicable legal requirements of the CAA, including CAA section 193. Further, Delaware relied upon Regulation 1109 in the 2010 SO_2 infrastructure SIP for purposes of compliance with CAA section 110(a)(2)(A). Thus, Delaware must address whether removal of Regulation 1109 from the SIP impacts the state's compliance with basic CAA requirements for SO_2, including specifically for purposes of the 2010 SO_2 NAAQS. A more robust justification and analysis than what has been submitted is necessary to support a conclusion that removing Regulation 1109 from the SIP does not interfere with attainment and maintenance of the NAAQS nor any other applicable requirement, such as CAA section

110(a)(2), to meet the CAA section 110(l) requirement. Delaware must also explain how this change would be consistent with the legal requirements of CAA section 193.

Regulation 1114: Delaware is also proposing to remove Regulation 1114 from the SIP. To address CAA section 110(l), Delaware states that the removal will not result in any increase in emissions on a ton per year basis without further explanation or any technical demonstration. Delaware also states that existing federal requirements like NSPS regulate visible emissions and that other Delaware SIP regulations that regulate fine particulate matter and fine particulate matter precursors such as Regulations 1108 and 1146 are adequate to ensure attainment and maintenance of any particulate related NAAQS in Delaware. Notably, EPA disagrees with Delaware's unsupported assertion that there is no quantifiable relationship between visible emissions and fine particulate matter emissions. EPA believes that Delaware's explanation to address CAA section 110(l) for the removal of Regulation 1114 from the SIP is insufficient. As mentioned previously in EPA's comment on Delaware's proposal to remove Regulation 1109 from the SIP, the NSPS cannot be relied upon to show removal of emission limitations from the SIP will not interfere with attainment of the NAAQS or any other CAA requirement because the NSPS do not address all the sources of visible emissions that Regulation 1114 addresses and some NSPS may also contain SSM exemptions until EPA revises them. Delaware has not identified which NSPS apply to sources that would otherwise be regulated by Regulation 1114 and has not demonstrated whether all such sources are sufficiently regulated for particulate matter by Delaware through other federally enforceable regulations. Delaware must explain how removing Regulation 1114 would be consistent with the applicable legal requirements of the CAA, including sections 110(l) and 193.

If you have any questions, please do not hesitate to contact me or have your staff contact Ms. Irene Shandruk at (215) 814-2166 or shandruk.irene@epa.gov.

Sincerely,

Cristina Fernandez,
Division Director