

status procedures, is addressed in the INS regulations, as that agency bears the responsibility for administering those provisions.

Interim Final Rule

Law enforcement agencies need access to the benefits provided in this legislation and, while the Department can administer the S visa on the basis of the INA, without regulations, use of the S visa by law enforcement agencies will be facilitated by prompt formulation of these regulatory provisions and the guidance, controls, and structure they afford. Moreover, given the unique characteristics of the S visa, as a classification available in the discretion of the Attorney General or Secretary of State for law enforcement and counter-terrorism purposes only, this regulation does not pertain to a visa classification that will be available to the general public. Prior notice and public comment with respect to this rule are therefore impracticable, unnecessary and contrary to the public interest. Under these conditions, there is good cause under 5 U.S.C. 553 to make the rule effective upon publication, with public comments to be considered thereafter.

In accordance with 5 U.S.C. 605(b) [Regulatory Flexibility Act], it is certified that this rule does not have a "significant adverse economic impact" on a substantial number of small entities. This rule is exempt from E.O. 12866, but has been coordinated with the Immigration and Naturalization Service because joint action of the Secretary of State and the Attorney General is required under INA 101(a)(15)(S), as amended. The rule imposes no reporting or recordkeeping action on the public requiring the approval of the Office of Management and Budget under the Paperwork Reduction Act. This rule has been reviewed as required by E.O. 12778 and is certified to be in compliance therewith.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Passports and Visas, Witnesses and Informants.

Accordingly, title 22, part 41 of the Code of Federal Regulations, is amended as follows:

PART 41—[AMENDED]

1. The authority citation for part 41 is revised to read as follows:

Authority: 8 U.S.C. 1104.

2. Part 41, Subpart I is amended by revising the heading to read as follows:

Subpart I—Fiance(e)s and Other Nonimmigrants

3. A new § 41.82 is added to read as follows:

§ 41.82 Certain Parents and Children of Section 101(a)(27)(I) Special Immigrants [Reserved]

4. A new § 41.83 is added to read as follows:

§ 41.83 Certain Witnesses and Informants.

(a) *General.* An alien shall be classifiable under the provisions of INA 101(a)(15)(S) if:

(1) The consular officer is satisfied that the alien qualifies under the provisions of that section; and

(2)(i) The consular officer has received verification from the Department of State, Visa Office, that:

(A) in the case of INA 101(a)(15)(S)(i) the INS has certified on behalf of the Attorney General that the alien is accorded such classification, or

(B) in the case of INA 101(a)(15)(S)(ii) the Assistant Secretary of State for Consular Affairs on behalf of the Secretary of State and the INS on behalf of the Attorney General have certified that the alien is accorded such classification;

(ii) and the alien is granted an INA 212(d)(1) waiver of any INA 212(a) ground of ineligibility known at the time of verification.

(b) *Certification of S visa status.* The certification of status under INA 101(a)(15)(S)(i) by the Attorney General or of status under INA 101(a)(15)(S)(ii) by the Secretary of State and the Attorney General acting jointly does not establish that the alien is eligible to receive a nonimmigrant visa.

(c) *Validity of Visa.* The period of validity of a visa authorized on the basis of paragraph (a) of this section shall not exceed the period indicated in the certification required in paragraph (b) and shall not in any case exceed the period of three years.

Dated: December 6, 1995.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 96-1013 Filed 1-23-96; 8:45 am]

BILLING CODE 4710-06-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE24-1-7156a; FRL-5401-2]

Approval and Promulgation of Air Quality Implementation Plans; Delaware Ozone Emission Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Delaware State Implementation Plan (SIP) which pertains to the 1990 base year emission inventory for the marginal, moderate, and severe ozone nonattainment areas within the State. The ozone nonattainment areas consist of the counties of Sussex (marginal), New Castle and Kent (both severe). The SIP was submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC) for the purpose of attaining the national ambient air quality standard (NAAQS) for ozone. This action is being taken under section 110 of the Clean Air Act.

EFFECTIVE DATE: This action will become effective March 25, 1996, unless notice is received on or before February 23, 1996, that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 597-3164, at EPA Region III address.

SUPPLEMENTARY INFORMATION: The Delaware Department of Natural Resources and Environmental Control (DNREC) submitted a revision to the Delaware SIP on May 27, 1994. The SIP revision consists of 1990 base year emission inventories for the ozone

nonattainment areas within the State. In accordance with the requirements of 40 CFR 51.102, a public hearing concerning this SIP revision was held on May 3, 1994 in Dover, Delaware. No comments were received during the public hearing.

I. Background

Under the Clean Air Act (CAA), states have the responsibility to inventory emissions contributing to NAAQS nonattainment, to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas towards attainment. The CAA requires ozone nonattainment areas designated as marginal, moderate, serious, severe, and extreme to submit a plan within two years of 1990 that contains a comprehensive, current, and accurate emission inventory. The 1990 base year emissions inventory is the primary inventory from which the periodic inventory, the Reasonable Further Progress (RFP) projection inventory, and the modeling inventory are derived. Further information on these inventories and their purpose can be found in the "Emission Inventory Requirements for Ozone State Implementation Plans", U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, March 1991. The base year inventory may also serve as part of statewide inventories for purposes of regional modeling in transport areas. The base year inventory plays an important role in modeling demonstrations for areas classified as moderate and above outside transport regions.

The air quality planning requirements for marginal to extreme ozone nonattainment areas are set out in section 182(a)-(e) of Title I of the CAA. EPA has issued a General Preamble describing EPA's preliminary views on how EPA intends to review SIP revisions submitted under Title I of the CAA, including requirements for the preparation of the 1990 base year inventory [see 57 FR 13502; April 16, 1992 and 57 FR 18070; April 28, 1992]. Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in today's action and the supporting rationale. In today's rulemaking on the Delaware ozone base year emissions inventory, EPA is applying its interpretations taking into consideration the specific factual issues presented.

Those States containing ozone nonattainment areas classified as

marginal to extreme are required under section 182(a)(1) of the CAA to submit a final, comprehensive, accurate, and current inventory of actual ozone season weekday emissions from all sources by November 15, 1992. This inventory is for calendar year 1990 and is denoted as the base year inventory. It includes both anthropogenic and biogenic sources of volatile organic compound (VOC), nitrogen oxides (NO_x), and carbon monoxide (CO). The inventory is to address actual VOC, NO_x, and CO emissions for the area during peak ozone season, which is generally comprised of the summer months. All stationary point and area sources, as well as highway mobile sources within the nonattainment area, are to be included in the compilation. Available guidance for preparing emission inventories is provided in the General Preamble (57 FR 13498, April 16, 1992).

Emission inventories are first reviewed under the completeness criteria established under section 110(k)(1) of the CAA (56 FR 42216, August 26, 1991). According to section 110(k)(1)(C) if a submittal does not meet the completeness criteria, "the state shall be treated as not having made the submission". Under sections 179(a)(1) and 110(c)(1), a finding by EPA that a submittal is incomplete is one of the actions that initiates the sanctions and Federal Implementation Plan (FIP) processes (see David Mobley memorandum, November 12, 1992).

Criteria for Approval

There are general and specific components of an acceptable emission inventory. In general, the state must meet the minimum requirements for reporting each source category. Specifically, the source requirements are detailed below.

The Level I and II review process is used to determine that all components of the base year inventory are present. The review also evaluates the level of supporting documentation provided by the state, assesses whether the emissions were developed according to current EPA guidance, and evaluates the quality of the data.

The Level III review process is outlined below and consists of 10 points that the inventory must include. For a base year emission inventory to be acceptable it must pass all of the following acceptance criteria:

1. An approved Inventory Preparation Plan (IPP) was provided and the QA program contained in the IPP was performed and its implementation documented.
2. Adequate documentation was provided that enabled the reviewer to

determine the emission estimation procedures and the data sources used to develop the inventory.

3. The point source inventory must be complete.

4. Point source emissions must have been prepared or calculated according to the current EPA guidance.

5. The area source inventory must be complete.

6. The area source emissions must have been prepared or calculated according to the current EPA guidance.

7. Biogenic emissions must have been prepared according to current EPA guidance or another approved technique.

8. The method (e.g., HPMS or a network transportation planning model) used to develop VMT estimates must follow EPA guidance, which is detailed in the document, "Procedures for Emission Inventory Preparation, Volume IV: Mobile Sources", U.S. Environmental Protection Agency, Office of Mobile Sources and Office of Air Quality Planning and Standards, Ann Arbor, Michigan, and Research Triangle Park, North Carolina, December 1992. The VMT development methods were adequately described and documented in the inventory report.

9. The MOBILE model (or EMFAC model for California only) was correctly used to produce emission factors for each of the vehicle classes.

10. Non-road mobile emissions were prepared according to current EPA guidance for all of the source categories.

The base year emission inventory is approvable if it passes Levels I, II, and III of the review process. Detailed Levels I and II review procedures can be found in the following document: "Quality Review Guidelines for 1990 Base Year Emission Inventories," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, July 27, 1992. Level III review procedures are specified in a memorandum from David Mobley and G.T. Helms to the Regions "1990 O₃/CO SIP Emission Inventory Level III Acceptance Criteria," October 7, 1992 and revised in a memorandum from John Seitz to the Regional Air Directors dated June 24, 1993.

II. Description of State Submittal

A. Procedural Background

The CAA requires states to observe certain procedural requirements in developing emission inventory submissions to EPA. Section 110(a)(2) of the CAA provides that each emission inventory submitted by a state must be adopted after reasonable notice and

public hearing. A public hearing concerning this SIP revision was held on May 3, 1994 in Dover, Delaware. No comments were received during the public hearing.

Delaware submitted revisions to the SIP on May 27, 1994. The inventories were signed by the Governor's designee on the same date of the submittal.

The SIP revisions were reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The Delaware submittals were found to be complete and a letter dated June 14, 1994 was forwarded to the Governor's designee indicating the completeness of the submittal and the next steps to be taken in the review process.

B. Components of the Emission Inventories

Based on EPA's level III review findings, Delaware has satisfied all of EPA's requirements for purposes

providing a comprehensive, accurate, and current inventory of actual emissions in the ozone nonattainment areas. A summary of EPA's level III findings is given below.

Delaware submitted draft IPPs to EPA for review. EPA approved the IPP and QA plan for Delaware in June 12, 1992.

1. The IPP and QA program have been approved and implemented.

2. The documentation was adequate for all emission types (stationary point, area, non-road mobile, on-road mobile and biogenic sources) for the reviewer to determine the estimation procedures and data sources used to develop the inventory.

3. The point source inventory was found to be complete.

4. The point source emissions were estimated according to EPA guidance.

5. The area source inventory was found to be complete.

6. The area source emissions were estimated according to EPA guidance.

7. The biogenic source emissions were estimated using PC-BEIS in accordance with EPA guidance.

8. The method used to develop VMT estimates was adequately described and documented.

9. The mobile model was used correctly.

10. The non-road mobile emission estimates were correctly prepared in accordance with EPA guidance.

Thus, Delaware submittal meets the essential reporting and documentation requirements for acceptable emission inventories.

C. Inventory Completeness Issues

Delaware has a SIP that will ensure that the requirements of section 182(a)(1) for emission inventory measures are adequately met. To comply with the emission inventory requirements, the state submitted complete inventories containing point, area, biogenic, on-road, and non-road mobile source data, and accompanying documentation. Emissions from these groupings of sources are presented in the tables below.

NAA	Area source emissions	Point source emissions	On-Road mobile emissions	Non-Road mobile emissions	Biogenic	Total emissions
New Castle County Ozone Season Emissions in Tons Per Day						
VOC	34.75	27.08	35.28	16.67	17.51	131.30
NO _x	5.40	85.77	27.06	18.78	N/A	137.00
CO	21.91	40.72	245.40	104.24	N/A	412.27
Kent County Ozone Season Emissions in Tons Per Day						
VOC	12.96	3.24	13.07	3.50	32.46	65.23
NO _x	1.20	6.13	10.62	7.89	N/A	25.84
CO	8.47	0.51	100.51	20.25	N/A	129.73
Sussex County Ozone Season Emissions in Tons Per Day						
VOC	17.31	6.28	20.71	3.34	45.99	93.62
NO _x	1.78	54.24	16.66	7.01	N/A	79.68
CO	8.25	1.68	154.39	21.86	N/A	186.18

EPA has determined that the submittals made by Delaware satisfies the relevant requirements of the CAA. EPA's detailed review of the emission inventories are contained in Technical Support Documents which are available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this rule.

EPA is approving the SIP revisions without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will become effective March 25,

1996 unless, by February 23, 1996, adverse or critical comments are received.

If EPA receives such comments, EPA will publish a document in the Federal Register withdrawing this rule before the effective date. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on March 25, 1996.

III. Final Action

EPA is approving revisions to the Delaware SIP to include 1990 base year emission inventories for the ozone nonattainment areas within the state. The inventories consist of point, area, non-road mobile, biogenics and on-road mobile source emissions for VOC, NO_x and CO.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision of any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIP's on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed/promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under state or local law, and imposes no new Federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the

procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 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 March 25, 1996. Filing a petition for reconsideration by the Administrator of this rule does not affect the finality of this rule 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, regarding Delaware emission inventories, 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, Carbon Monoxide, Hydrocarbons, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: November 27, 1995.

Stanley Laskowski,

Acting Regional Administrator, Region III.

Part 52, Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.

Subpart I—Delaware

2. Section 52.423 is added to read as follows:

§ 52.423 1990 Base Year Emission Inventory.

EPA approves as a revision to the Delaware State Implementation Plan the 1990 base year emission inventories for the Delaware ozone nonattainment areas submitted by the Secretary of the Department of Natural Resources and Environmental Control on May 27, 1994. This submittal consists of the 1990 base year point, area, non-road mobile, biogenic and on-road mobile source emission inventories in area for the following pollutants: volatile organic compounds (VOC), carbon

monoxide (CO), and oxides of nitrogen (NO_x).

[FR Doc. 96-920 Filed 1-23-96; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Part 1004

RIN 0991-AA73

Health Care Programs: Fraud and Abuse; Revisions to the PRO Sanctions Process

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Correction to final regulations.

SUMMARY: This document corrects a technical error that appeared in 42 CFR part 1004 of the final rule published in the Federal Register on December 12, 1995 (60 FR 63634). The final rule was designed to revise and update the procedures governing the imposition and adjudication of program sanctions predicated on recommendations of State Utilization and Quality Control Peer Review Organizations. Specifically, this correction notice sets forth the corrected text for section 1004.110(f) which contained a typographical error in subparagraph (2).

EFFECTIVE DATE: January 24, 1996.

FOR FURTHER INFORMATION CONTACT: Joel J. Schaer, (202) 619-0089.

SUPPLEMENTARY INFORMATION: In the OIG final regulations published in the Federal Register on December 12, 1995, revising 42 CFR part 1004, a technical error was inadvertently made on page 63644, column one, in setting forth the text in section 1004.110, Notice of sanction. As corrected, section 1004.110(f) should read as follows:

§ 1004.110 Notice of sanction.

* * * * *

(f) If an exclusion sanction is effectuated because a decision was not made within 120 days after receipt of the PRO recommendation, notification is as follows—

(1) As soon as possible after the 120th day, the OIG will issue a notice to the practitioner or other person, in compliance with the requirements of paragraph (c) of this section, affirming the PRO recommendation based on the OIG's review of the case, and that the exclusion is effective 20 days from the date of the notice; and

(2) Notice of sanction is also provided as specified in paragraph (e) of this section.