

**List of Subjects in 14 CFR part 204**

Air carriers, Reporting and recordkeeping requirements.

**Correcting Amendment**

For the reasons set out in the preamble, Title 14, Chapter II of the Code of Federal Regulations is corrected by making the following correcting amendment:

**PART 204—DATA TO SUPPORT FITNESS DETERMINATIONS**

1. The authority citation for part 204 continues to read as follows:

**Authority:** 49 U.S.C. Chapters 401, 411, 417.

**§ 204.2 [Corrected]**

2. In § 204.2, paragraph (k)(2) is revised to read as follows:

\* \* \* \* \*

(k) \* \* \*

(2) Any company (including a sole proprietorship or partnership) holding between 20 percent and 50 percent of the outstanding voting stock of the applicant or air carrier and which has significant influence over the applicant or air carrier as indicated, for example, by 25 percent representation on the board of directors, participation in policy-making processes, substantial inter-company transactions, or managerial personnel with common responsibilities in both companies.

\* \* \* \* \*

Dated: March 5, 1999.

**Patrick V. Murphy,**

*Deputy Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 99-5972 Filed 3-10-99; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[DE041-1019a; FRL-6238-7]

**Approval and Promulgation of Air Quality Implementation Plans; Delaware; Definitions of VOCs and Exempt Compounds**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Delaware State Implementation Plan (SIP). The revisions consist of amendments to the definitions of the terms "volatile organic compounds" (VOCs), and "exempt compounds." EPA

is approving these revisions because they make Delaware's definitions consistent with the federal definition of VOCs.

**DATES:** This rule is effective on May 10, 1999 without further notice, unless EPA receives adverse written comment by April 12, 1999. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments should be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, Dover, Delaware 19901.

**FOR FURTHER INFORMATION CONTACT:** Rose Quinto, (215) 814-2182, or by e-mail at [quinto.rose@epamail.epa.gov](mailto:quinto.rose@epamail.epa.gov). While information may be obtained via e-mail, comments must be submitted in writing in accordance with the procedures provided above.

**SUPPLEMENTARY INFORMATION:****I. Background**

On December 28, 1998, the State of Delaware submitted formal revisions to its SIP. The revisions consist of amending the SIP's definitions of the terms "VOCs" and "exempt compounds" to be consistent with the federal definition of VOC found at 40 CFR 51.100 (s)(1).

**II. Summary of SIP Revision**

Delaware REGULATION 1—DEFINITIONS AND ADMINISTRATIVE PRINCIPLES, Section 2—Definitions, \* \* \* VOLATILE ORGANIC COMPOUNDS is amended by adding twenty-four additional organic compounds to the list of compounds exempted from the definition of VOCs because those compounds have been determined to be of negligible photochemical reactivity. Regulation 24—CONTROL OF VOLATILE ORGANIC COMPOUND EMISSIONS, Section 2—Definitions, \* \* \* s. "Exempt Compounds" is amended to reference the list of negligibly photochemically reactive compounds found in REGULATION 1. The revisions to these Delaware regulations is approvable because these compounds

have been determined by the Environmental Protection Agency to have negligible photochemical reactivity and therefore do not participate in chemical reactions that contribute to the formation of ozone, commonly referred to as smog.

The following are the twenty-four organic compounds that have been added to Delaware's list of compounds exempt from the definition of VOCs in accordance with 40 CFR 51.100(s)(1):

1. Parachlorobenzotrifluoride (PCBTF),
2. Cyclic, branched, or linear completely methylated siloxanes,
3. Acetone,
4. Perchloroethylene (tetrachloroethylene),
5. HCFC-225ca (3, 3-dichloro-1, 1, 1, 2, 2-pentafluoropropane),
6. HCFC-225cb (1, 3-dichloro-1, 1, 2, 2, 3-pentafluoropropane),
7. HFC-43-10mee (1, 1, 1, 2, 3, 4, 4, 5, 5, 5-decafluoropentane),
8. HFC-32 (difluoromethane),
9. HFC-161 (ethylfluoride),
10. HFC-236fa (1, 1, 1, 3, 3, 3-hexafluoropropane),
11. HFC-245ca (1, 1, 2, 2, 3-pentafluoropropane),
12. HFC-245ea (1, 1, 2, 3, 3-pentafluoropropane),
13. HFC-245eb (1, 1, 1, 2, 3-pentafluoropropane),
14. HFC-245fa (1, 1, 1, 3, 3-pentafluoropropane),
15. HFC-236ea (1, 1, 1, 2, 3, 3-hexafluoropropane),
16. HFC-365mfc (1, 1, 1, 3, 3-pentafluorobutane),
17. HCFC-31 (chlorofluoromethane),
18. HCFC-151a (1-chloro-1-fluoroethane),
19. HCFC-123a (1, 2-dichloro-1, 1, 2-trifluoroethane),
20. 1, 1, 1, 2, 2, 2, 3, 3, 4, 4-nonafluoro-4-methoxy-butane (C<sub>4</sub>F<sub>9</sub>OCH<sub>3</sub>),
21. 2-(difluoromethoxymethyl)-1, 1, 1, 2, 3, 3, 3-heptafluoropropane ((CF<sub>3</sub>)<sub>2</sub>CF<sub>2</sub>OC<sub>2</sub>H<sub>5</sub>),
22. 1-ethoxy-1, 1, 2, 2, 3, 3, 4, 4-nonafluorobutane (C<sub>4</sub>F<sub>9</sub>OC<sub>2</sub>H<sub>5</sub>),
23. 2-(ethoxydifluoromethyl)-1, 1, 1, 2, 3, 3-heptafluoropropane ((CF<sub>3</sub>)<sub>2</sub>CF<sub>2</sub>OC<sub>2</sub>H<sub>5</sub>), and
24. Methyl acetate.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on May 10, 1999 without further notice unless EPA receives

adverse comment by April 12, 1999. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments 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 must do so at this time.

### III. Final Action

EPA is approving the SIP revisions submitted on December 28, 1998 by the Delaware Department of Natural Resources and Environmental Control to amend REGULATION 1—DEFINITIONS AND ADMINISTRATIVE PRINCIPLES, Section 2—Definitions, \* \* \* VOLATILE ORGANIC COMPOUNDS and REGULATION 24—CONTROL OF VOLATILE ORGANIC COMPOUNDS, Section 2—Definitions, \* \* \* s. "Exempt compounds."

### IV. Administrative Requirements

#### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under E.O. 12866, entitled "Regulatory Planning and Review."

#### B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If EPA complies by consulting, E.O. requires EPA to provide OMB a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

#### C. Executive Order 13045

E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is "economically significant," as defined under E.O. 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This final rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

#### D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

#### E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment

rulemaking requirements unless the agency certifies 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 small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

#### F. Unfunded Mandates

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 rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to 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 promulgated does not include a Federal mandate that may result in estimated annual 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

**G. 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 rule 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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

**H. Petitions for Judicial Review**

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of

this action approving Delaware's definitions of VOCs and exempted compounds must be filed in the United States Court of Appeals for the appropriate circuit by May 10, 1999. Filing a petition for reconsideration by the Administrator of this final 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 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, Ozone, Volatile organic compounds.

Dated: February 25, 1999.

**Thomas J. Maslany,**

*Acting Regional Administrator, Region III.*

40 CFR part 52 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 *et seq.*

**Subpart I—Delaware**

2. In § 52.420, the entry for Regulation 1, Section 2; and Regulation 24, Section 2 in the "EPA-Approved Regulations in the Delaware SIP" table in paragraph (c) is revised to read as follows:

**§ 52.420 Identification of plan.**

\* \* \* \* \*

(c) EPA approved regulations.

**EPA-APPROVED REGULATIONS IN THE DELAWARE SIP**

State citation	Title/subject	State effective date	EPA Approval date	Comments
Regulation 1		Definitions and Administrative Principles		
Section 2	Definitions	10/11/98	3/11/99 64 FR 12087	Some terms not in SIP due to subject matter.
Regulation 24		Control of Volatile Organic Compound Emissions		
Section 2	Definitions	10/11/98	3/11/99 64 FR 12087	The revised definition of "Exempt compounds".

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[IA 058-1058a; FRL-6308-5]

**Approval and Promulgation of Implementation Plans; State of Iowa**

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving a revision to the Iowa State Implementation Plan (SIP) which provides for the attainment and maintenance of the sulfur dioxide (SO<sub>2</sub>) National Ambient Air Quality Standard (NAAQS) in Cedar Rapids, Iowa. This

revision approves a state Administrative Consent Order (ACO) and Emission Control Plan (ECP) which requires reductions of SO<sub>2</sub> emissions from certain major sources in Cedar Rapids, Iowa. Approval of this SIP revision will make the state ACO and ECP Federally enforceable.

**DATES:** This direct final rule is effective on May 10, 1999, without further notice, unless the EPA receives adverse comment by April 12, 1999. If adverse comment is received, the EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Comments may be addressed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

Copies of the state submittal(s) are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Wayne Kaiser at (913) 551-7603.

**SUPPLEMENTARY INFORMATION:** This section provides additional information by answering the following questions:

- What is a SIP?
- What is the NAAQS?
- What air quality problems occurred in Cedar Rapids, Iowa?
- How was the problem addressed?
- What is the control strategy?
- Is the SIP revision approvable?