

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[DE101-1037; FRL-7668-1]

**Approval and Promulgation of Air Quality Implementation Plans; Delaware; Update to Materials Incorporated by Reference**

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

**ACTION:** Final rule; Notice of administrative change.

**SUMMARY:** EPA is updating the materials submitted by Delaware that are incorporated by reference (IBR) into the State implementation plan (SIP). The regulations affected by this update have been previously submitted by the State agency and approved by EPA. This update affects the SIP materials that are available for public inspection at the Office of the Federal Register (OFR), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC and the Regional Office.

**EFFECTIVE DATE:** This action is effective June 21, 2004.

**ADDRESSES:** SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue NW., Room B108, Washington, DC 20460; and the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Harold A. Frankford, (215) 814-2108 or by e-mail at [frankford.harold@epamail.epa.gov](mailto:frankford.harold@epamail.epa.gov).

**SUPPLEMENTARY INFORMATION:** The SIP is a living document which the State can

revise as necessary to address the unique air pollution problems in the State. From time to time, therefore, EPA must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference federally-approved SIPs, as a result of consultations between EPA and OFR. The description of the revised SIP document, IBR procedures and "Identification of plan" format are discussed in further detail in the May 22, 1997, **Federal Register** document. On December 7, 1998 (63 FR 67407), EPA published a document in the **Federal Register** beginning the new IBR procedure for Delaware. In this action, EPA is doing the following:

1. Announcing the first update to the IBR material.
2. Adding § 52.420(e) which summarizes the non-regulatory actions that EPA has taken on the Delaware SIP.
3. Making corrections to the charts listed in § 52.420(c), as described below:
  - a. Regulation 1 (Definitions and Administrative Principles), Section 2—Definitions (second entry)—The entry in the "EPA Approval Date" column is revised by adding the **Federal Register** page citation (64 FR 48961) after the publication date (9/9/99).
  - b. Regulation 4 (Particulate Emissions from Fuel Burning Equipment), Section 1 (General Provisions) and Section 2 (Emission Limits)—The entries in the "EPA Approval Date" column are revised by adding the publication date (3/23/76) after the **Federal Register** page citation (41 FR 12010).
  - c. Regulation 5 (Particulate Emissions from Industrial Process Operations), Section 5 (Restrictions on Petroleum Refining Operations)—The text in the "Comments" column is removed.
  - d. Regulation 9 (Emissions of Sulfur Compounds from Industrial Operations) Section 2 (Restrictions on Sulfuric Acid Manufacturing Operations)—The text in the "Comments" column is revised.

e. Regulation 11 (Carbon Monoxide Emissions from Industrial Process Operations—New Castle County)—The text in the "Comments" column ("Citation revised 3/23/76, 41 FR 12010") is moved from the Section 1 entry (General Provisions) to the Section 2 entry (Restrictions on Petroleum Refining Operations).

f. Regulation 17 (Source Monitoring, Recordkeeping and Reporting)—The existing text in the "Comments" column is removed and replaced with the following text: "Former SIP Sections 1 through 5 respectively; citation revised 2/28/96, 62 FR 7453."

g. Regulation 17, Section 4 (Performance Specifications) and Section 6 (Data Reduction)—The entry in the "EPA Approval Date" column is revised by adding the **Federal Register** page citation (64 FR 48961) after the publication date (9/9/99).

h. Regulation 24 (Control of Volatile Organic Compound Emissions), Section 2 (Definitions)—The text in the "Comments" column is removed.

i. Regulation 31 (Low Enhanced Inspection and Maintenance Program), Sections 4, 10, 11, 12, and Appendices 1(d), 3(a)(7), 3(c)(2), 4(a), 5(a), 6(a)(5), 7(a) and 8(a)—The entry in the "EPA Approval Date" column is revised by adding the **Federal Register** page citation (64 FR 52657) after the publication date (9/30/99).

j. Regulation 39 (Nitrogen Oxides (NO<sub>x</sub>) Budget Trading Program)—The text in the "Comments" column is removed. The **Federal Register** publication date and citation (5/17/01, 66 FR 27462) are added in the "EPA approval date" column to each entry, beginning with Section 2, listed under Regulation 39.

k. Regulation 40 (National Low Emission Vehicle Program)—EPA approved this regulation as a revision to the Delaware SIP on December 28, 1999 (64 FR 72564), and therefore added an entry to the table in § 52.420(c) to read as follows:

State citation	Title/subject	State effective date	EPA approval date	Comments
<b>Regulation—National Low Emission Vehicle Program</b>				
Section 1 .....	Applicability .....	10/11/99	12/28/99 64 FR 72564	Issued on September 1, 1999 by Secretary's Order No. 99-A-0046.
Section 2 .....	Definitions .....	10/11/99	12/28/99 64 FR 72564	

State citation	Title/subject	State effective date	EPA approval date	Comments
Section 3 .....	Program Participation .....	10/11/99	12/28/99 64 FR 72564	

However, in a subsequent revision to the chart in § 52.420(c), EPA provided an erroneous amendatory instruction which resulted in the inadvertent removal of the Regulation 40 entries from the chart. In today's action, EPA is restoring these entries to § 52.420(c).

4. In the tables found in §§ 52.420(c) and 52.420(d), renaming the column heading entitled "Comments" to "Additional Explanation."

EPA has determined that today's rule falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation; and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved state programs. Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment is "unnecessary" and "contrary to the public interest" since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations.

**Statutory and Executive Order Reviews**

*A. General Requirements*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it 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). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

*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 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).

*C. Petitions for Judicial Review*

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Delaware SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for these "Identification of plan" reorganization update actions for Delaware.

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

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

Dated: May 20, 2004.

**Richard J. Kampf,**

*Acting Regional Administrator, Region III.*

■ 40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart I—Delaware**

■ 2. Section 52.420 is amended by revising paragraphs (b), (c), and (d), and adding paragraph (e) to read as follows:

**§ 52.420 Identification of plan.**

\* \* \* \* \*

(b) Incorporation by reference.

(1) Material listed as incorporated by reference in paragraphs (c) and (d) was approved for incorporation by reference by the Director of the Federal Register

in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates on or after June 1, 2004 will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region III certifies that the rules/regulations provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the Delaware State implementation plan as of June 1, 2004.

(3) Copies of the materials incorporated by reference may be inspected at the EPA Region III Office at 1650 Arch Street, Philadelphia, PA 19103; the EPA, Air and Radiation Docket and Information Center, Air Docket (6102), 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(c) EPA approved regulations.

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

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
<b>Regulation 1—Definitions and Administrative Principles</b>				
Section 1 .....	General Provisions .....	5/28/74	03/23/76 41 FR 12010	
Section 2 .....	Definitions .....	10/11/98	3/11/99 64 FR 12085	
Section 2 .....	Definitions .....	2/8/95	9/9/99 64 FR 48961	<b>New Definitions:</b> (Effective date: 1/7/77) —Capacity factor. —Continuous monitoring system. —Emission standard. —Equipment shutdown. —Excess Emissions. (Effective Date: 9/26/78). —Sulfuric Acid Plant. <b>Revised Definitions:</b> (Effective date: 1/7/77). —Existing Installation, Equipment, Source, or Operation.
Section 3 .....	Administrative Principles .....	1/7/72	05/31/72 37 FR 10842	
Section 4 .....	Abbreviations .....	2/1/81	3/15/82 48 FR 11013	Abbreviation of “CAA” only.
<b>Regulation 2—Permits</b>				
Section 1 .....	General Provisions .....	6/1/97	1/13/00 65 FR 2048	
Section 2 .....	Applicability .....	6/1/97	1/13/00 65 FR 2048	
Section 3 .....	Applications Prepared by Interested Parties.	6/1/97	1/13/00 65 FR 2048	
Section 4 .....	Cancellation of Construction Permits .....	6/1/97	1/13/00 65 FR 2048	
Section 5 .....	Action on Applications .....	6/1/97	1/13/00 65 FR 2048	

## EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 6 .....	Denial, Suspension or Revocation of Operating Permits.	6/1/97	1/13/00 65 FR 2048	
Section 7 .....	Transfer of Permit/Registration Prohibited.	6/1/97	1/13/00 65 FR 2048	
Section 8 .....	Availability of Permit/Registration .....	6/1/97	1/13/00 65 FR 2048	
Section 9 .....	Registration Submittal .....	6/1/97	1/13/00 65 FR 2048	
Section 10 .....	Source Category Permit Application .....	6/1/97	1/13/00 65 FR 2048	
Section 11 .....	Permit Application .....	6/1/97	1/13/00 65 FR 2048	
Section 12 .....	Public Participation .....	6/1/97	1/13/00 65 FR 2048	Limited approval.
Section 13 .....	Department Records .....	6/1/97	1/13/00 65 FR 2048	

**Regulation 3—Ambient Air Quality Standards**

Section 1 .....	General Provisions .....	03/29/88	4/6/94 48 FR 46986	
Section 2 .....	General Restrictions .....	3/11/80	10/30/81 46 FR 53663	
Section 3 .....	Suspended Particulates .....	3/11/80	10/30/81 46 FR 53663	
Section 4 .....	Sulfur Dioxide .....	3/11/80	10/30/81 46 FR 53663	
Section 5 .....	Carbon Monoxide .....	3/11/80	10/30/81 46 FR 53663	
Section 6 .....	Ozone .....	3/11/80	10/30/81 46 FR 53663	
Section 8 .....	Nitrogen Dioxide .....	3/11/80	10/30/81 46 FR 53663	
Section 10 .....	Lead .....	3/11/80	3/11/82 48 FR 10535	
Section 11 .....	PM <sub>10</sub> Particulates .....	12/7/88	4/6/94 48 FR 46986	

**Regulation 4—Particulate Emissions From Fuel Burning Equipment**

Section 1 .....	General Provisions .....	5/28/74	3/23/76 41 FR 12010	
Section 2 .....	Emission Limits .....	5/28/74	3/23/76 41 FR 12010	

**Regulation 5—Particulate Emissions From Industrial Process Operations**

Section 1 .....	General Provisions .....	5/28/74	3/23/76 41 FR 12010	
Section 2 .....	General Restrictions .....	5/28/74	3/23/76 41 FR 12010	

## EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 3 .....	Restrictions on Hot Mix Asphalt Batching Operations.	5/28/74	3/23/76 41 FR 12010	
Section 4 .....	Restrictions on Secondary Metal Operations.	12/2/77	07/30/79 44 FR 44497	
Section 5 .....	Restrictions on Petroleum Refining Operations.	9/26/78	9/9/99 64 FR 48961	
Section 6 .....	Restrictions on Prill Tower Operations ...	9/26/78	08/01/80 45 FR 51198	
Section 7 .....	Control of Potentially Hazardous Particulate Matter.	1/7/72	5/31/72 37 FR 10842	
<b>Regulation 6—Particulate Emissions From Construction and Materials Handling</b>				
Section 1 .....	General Provisions .....	1/7/72	05/31/72 37 FR 10842	
Section 2 .....	Demolition .....	5/28/74	03/23/76 41 FR 12010	
Section 3 .....	Grading, Land Clearing, Excavation and Use of Non-Paved Roads.	5/28/74	03/23/76 41 FR 12010	
Section 4 .....	Material Movement .....	5/28/74	03/23/76 41 FR 12010	
Section 5 .....	Sandblasting .....	5/28/74	03/23/76 41 FR 12010	
Section 6 .....	Material Storage .....	5/28/74	03/23/76 41 FR 12010	
<b>Regulation 7—Particulate Emissions From Incineration</b>				
Section 1 .....	General Provisions .....	05/28/74	03/23/76 41 FR 12010	
Section 2 .....	Restrictions .....	12/8/83	10/3/84 49 FR 39061	Provisions were revised 10/13/89 by State, but not submitted to EPA as SIP revisions.
<b>Regulation 8—Sulfur Dioxide Emissions From Fuel Burning Equipment</b>				
Section 1 .....	General Provisions .....	12/8/83	10/3/84 49 FR 39061	
Section 2 .....	Limit on Sulfur Content of Fuel .....	5/9/85	12/08/86 51 FR 44068	
Section 3 .....	Emissions Control in Lieu of Sulfur Content Limits of Section 2.	5/9/85	12/08/86 51 FR 44068	
<b>Regulation 9—Emissions of Sulfur Compounds From Industrial Operations</b>				
Section 1 .....	General Provisions .....	5/9/85	12/08/86 51 FR 44068	
Section 2 .....	Restrictions on Sulfuric Acid Manufacturing Operations.	9/26/78	9/9/99 64 FR 48961	1. On 3/11/1982 (47 FR 10535), EPA approved revisions to Section 2 with a State effective date of 12/29/1980. 2. Section 2.2 (State effective date: 9/26/1980) is federally enforceable as a Section 111(d) plan and codified at 40 CFR 62.1875.

## EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 3 .....	Restriction on Sulfur Recovery Operations.	5/28/74	03/23/76 41 FR 12010	
Section 4 .....	Stack Height Requirements .....	4/18/83	09/21/83 48 FR 42979	
<b>Regulation 10—Control of Sulfur Dioxide Emissions—Kent and Sussex Counties</b>				
Section 1 .....	Requirements for Existing Sources of Sulfur Dioxide.	1/7/72	05/31/72 37 FR 10842	
Section 2 .....	Requirements for New Sources of Sulfur Dioxide.	5/28/74	03/23/76 41 FR 12010	
<b>Regulation 11—Carbon Monoxide Emissions from Industrial Process Operations—New Castle County</b>				
Section 1 .....	General Provisions .....	5/28/74	03/23/76 41 FR 12010	
Section 2 .....	Restrictions on Petroleum Refining Operations.	1/7/72	05/31/72 37 FR 10842	Citation revised 3/23/76, 41 FR 12010.
<b>Regulation 12—Control of Nitrogen Oxide Emissions</b>				
Section 1 .....	Applicability .....	11/24/93	6/14/01 66 FR 32234	
Section 2 .....	Definitions .....	11/24/93	6/14/01 66 FR 32234	
Section 3 .....	Standards .....	11/24/93	6/14/01 66 FR 32234	
Section 4 .....	Exemptions .....	11/24/93	6/14/01 66 FR 32234	
Section 5 .....	Alternative and Equivalent RACT Determinations.	11/24/93	6/14/01 66 FR 32234	
Section 6 .....	RACT Proposals .....	11/24/93	6/14/01 66 FR 32234	
Section 7 .....	Compliance, Certification, Record-keeping, and Reporting Requirements.	11/24/93	6/14/01 66 FR 32234	
<b>Regulation 13—Open Burning</b>				
Section 1 .....	Prohibitions-All Counties .....	2/8/95	03/12/97 62 FR 11329	EPA effective date is 5/1/98.
Section 2 .....	Prohibitions-Specific Counties .....	2/8/95	03/12/97 62 FR 11329	EPA effective date is 5/1/98.
Section 3 .....	General Restrictions-All Counties .....	2/8/95	03/12/97 62 FR 11329	EPA effective date is 5/1/98.
Section 4 .....	Exemptions-All Counties .....	2/8/95	03/12/97 62 FR 11329	EPA effective date is 5/1/98.
<b>Regulation 14—Visible Emissions</b>				
Section 1 .....	General Provisions .....	7/17/84	07/02/85 50 FR 27244	
Section 2 .....	Requirements .....	7/17/84	07/02/85 50 FR 27244	
Section 3 .....	Alternate Opacity Requirements .....	7/17/84	07/02/85 50 FR 27244	

## EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 4 .....	Compliance with Opacity Standards .....	7/17/84	07/02/85 50 FR 27244	
<b>Regulation 15—Air Pollution Alert and Emergency Plan</b>				
Section 1 .....	General Provisions .....	1/7/72	05/31/72 37 FR 10842	
Section 2 .....	Stages and Criteria .....	3/29/88	04/06/94 59 FR 16140	
Section 3 .....	Required Actions .....	1/7/72	5/31/72 37 FR 10842	Delaware removed the word “standby” from Table III, section 3B effective 5/28/74, but did not submit as a SIP revision.
Section 4 .....	Standby Plans .....	1/7/72	05/31/72 37 FR 10842	
<b>Regulation 16—Sources Having an Interstate Air Pollution Potential</b>				
Section 1 .....	General Provisions .....	1/7/72	05/31/72 37 FR 10842	Delaware revised provision effective 5/28/74, but did not submit as a SIP revision.
Section 2 .....	Limitations .....	1/7/72	05/31/72 37 FR 10842	
Section 3 .....	Requirements .....	1/7/72	05/31/72 37 FR 10842	
<b>Regulation 17—Source Monitoring, Record-keeping and Reporting</b>				
Section 1 .....	Definitions and Administrative Principles	1/11/93	02/28/96 61 FR 7453	
Section 2 .....	Sampling and Monitoring .....	7/17/84	07/02/85 50 FR 27244	Former SIP Sections 1 through 5 respectively; citation revised 2/28/96, 62 FR 7453.
Section 3 .....	Minimum Emission Monitoring Requirements for Existing Sources.	1/10/77	8/25/81 46 FR 43150	
Section 4 .....	Performance Specifications .....	1/11/93	9/9/99 64 FR 48961	
Section 5 .....	Minimum Data Requirements .....	1/10/77	8/25/81 46 FR 43150	
Section 6 .....	Data Reduction .....	1/11/93	9/9/99 64 FR 48961	
Section 7 .....	Emission Statement .....	1/11/93	02/28/96 61 FR 7453	
<b>Regulation 23—Standards of Performance for Steel Plants: Electric Arc Furnaces</b>				
Section 1 .....	Applicability .....	12/2/77	07/30/79 44 FR 44497	Correction published 8/20/80, 45 FR 55422.
Section 2 .....	Definitions .....	04/18/83	09/21/83 49 FR 39061	
Section 3 .....	Standard for Particulate Matter .....	04/18/83	09/21/83 49 FR 39061	
Section 4 .....	Monitoring of Operations .....	12/2/77	07/30/79 44 FR 44497	Correction published 8/20/80, 45 FR 55422.

## EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 5 .....	Test Methods and Procedures .....	12/2/77	07/30/79 44 FR 44497	Correction published 8/20/80, 45 FR 55422.
<b>Regulation 24—Control of Volatile Organic Compound Emissions</b>				
Section 1 .....	General Provisions .....	1/11/93	5/3/95 60 FR 21707	
Section 2 .....	Definitions .....	1/11/02	11/14/03 68 FR 64540	
Section 3 .....	Applicability .....	1/11/93	5/3/95 60 FR 21707	
Section 4 .....	Compliance Certification, Record-keeping, and Reporting Requirements for Coating Sources.	11/29/94	01/26/96 61 FR 2419	
Section 5 .....	Compliance Certification, Record-keeping, and Reporting Requirements for Non-Coating Sources.	1/11/93	5/3/95 60 FR 21707	
Section 6 .....	General Recordkeeping .....	1/11/93	5/3/95 60 FR 21707	
Section 7 .....	Circumvention .....	1/11/93	5/3/95 60 FR 21707	
Section 8 .....	Handling, Storage, and Disposal of Volatile Organic Compounds (VOCs).	11/29/94	01/26/96 61 FR 2419	
Section 9 .....	Compliance, Permits, Enforceability .....	1/11/93	5/3/95 60 FR 21707	
Section 10 .....	Aerospace Coatings .....	2/11/03	3/24/04 69 FR 13737	SIP effective date is 5/24/04.
Section 11 .....	Mobile Equipment Repair and Refinishing.	11/11/01	11/22/02 67 FR 70315	
Section 12 .....	Surface Coating of Plastic Parts .....	11/29/94	01/26/96 61 FR 2419	
Section 13 .....	Automobile and Light-Duty Truck Coating Operations.	1/11/93	5/3/95 60 FR 21707	
Section 14 .....	Can Coating .....	1/11/93	5/3/95 60 21707	
Section 15 .....	Coil Coating .....	1/11/93	5/3/95 60 21707	
Section 16 .....	Paper Coating .....	1/11/93	5/3/95 60 21707	
Section 17 .....	Fabric Coating .....	1/11/93	5/3/95 60 FR 21707	
Section 18 .....	Vinyl Coating .....	1/11/93	5/3/95 60 FR 21707	
Section 19 .....	Coating of Metal Furniture .....	1/11/93	5/3/95 60 FR 21707	
Section 20 .....	Coating of Large Appliances .....	1/11/93	5/3/95 60 FR 21707	
Section 21 .....	Coating of Magnet Wire .....	11/29/94	01/26/96 60 FR 2419	



## EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 22 .....	Coating of Miscellaneous Metal Parts ....	1/11/93	5/3/95 60 FR 21707	
Section 23 .....	Coating of Flat Wood Panelling .....	1/11/93	5/3/95 60 FR 21707	
Section 24 .....	Bulk Gasoline Plants .....	1/11/93	5/3/95 60 FR 21707	
Section 25 .....	Bulk Gasoline Terminals .....	11/29/94	01/26/96 61 FR 2419	
Section 26 .....	Gasoline Dispensing Facility-Stage I Vapor Recovery.	1/11/02	11/14/03 68 FR 64540	
Section 27 .....	Gasoline Tank Trucks .....	1/11/93	5/3/95 60 FR 21707	
Section 28 .....	Petroleum Refinery Sources .....	1/11/93	5/3/95 60 FR 21707	
Section 29 .....	Leaks from Petroleum Refinery Equipment.	11/29/94	01/26/96 61 FR 2419	
Section 30 .....	Petroleum Liquid Storage in External Floating Roof Tanks.	11/29/94	01/26/96 61 FR 2419	
Section 31 .....	Petroleum Liquid Storage Fixed Roof Tanks.	11/29/94	01/26/96 61 FR 2419	
Section 32 .....	Leaks from Natural Gas/Gasoline Processing Equipment.	11/29/94	01/26/96 61 FR 2419	
Section 33 .....	Solvent Metal Cleaning and Drying .....	11/11/01	11/22/02 67 FR 70315	
Section 34 .....	Cutback and Emulsified Asphalt .....	1/11/93	5/3/95 60 FR 21707	
Section 35 .....	Manufacture of Synthesized Pharmaceutical Products.	11/29/94	01/26/96 61 FR 2419	
Section 36 .....	Stage II Vapor Recovery .....	1/11/93	6/10/94 59 FR 29956	
Section 37 .....	Graphic Arts Systems .....	11/29/94	01/26/96 61 FR 2419	
Section 38 .....	Petroleum Solvent Dry Cleaners .....	1/11/93	5/3/95 60 FR 21707	
Section 39 .....	Perchloroethylene Dry Cleaning .....	1/11/93	5/3/95 60 FR 21707	
Section 40 .....	Leaks from Synthetic Organic Chemical, Polymer, and Resin Manufacturing Equipment.	1/11/93	5/3/95 60 FR 21707	
Section 41 .....	Manufacture of High-Density Polyethylene, Polypropylene and Polystyrene Resins.	1/11/93	5/3/95 60 FR 21707	
Section 42 .....	Air Oxidation Processes in the Synthetic Organic Chemical Manufacturing Industry.	1/11/93	5/3/95 60 FR 21707	
Section 43 .....	Bulk Gasoline Marine Tank Vessel Loading Facilities.	11/29/94	01/26/96 61 FR 2419	

## EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 44 .....	Batch Processing Operations .....	11/29/94	01/26/96 61 FR 2419	
Section 45 .....	Industrial Cleaning Solvents .....	11/29/94	01/26/96 61 FR 2419	
Section 47 .....	Offset Lithographic Printing .....	11/29/94	05/14/97 62 FR 26399	
Section 48 .....	Reactor Processes and Distillation Operations in the Synthetic Organic Chemical Manufacturing Industry.	11/29/94	01/26/96 61 FR 2419	
Section 49 .....	Control of Volatile Organic Compound Emissions from Volatile Organic Liquid Storage Vessels.	11/29/94	01/26/96 61 FR 2419	
Section 50 .....	Other Facilities that Emit Volatile Organic Compounds (VOCs).	11/29/94	03/12/97 62 FR 11329	EPA effective date for Sections 50(a)(5) and 50(b)(3) is 5/1/98
Appendix "A" .....	Test Methods and Compliance Procedures: General Provisions.	11/29/94	01/26/96 61 FR 2419	
Appendix "B" .....	Test Methods and Compliance Procedures: Determining the Volatile Organic Compound (VOC) Content of Coatings and Inks.	1/11/93	5/3/95 60 FR 21707	
Appendix "C" .....	Test Methods and Compliance Procedures: Alternative Compliance Methods for Surface Coating.	1/11/93	5/3/95 60 FR 21707	
Appendix "D" .....	Test Methods and Compliance Procedures: Emission Capture and Destruction or Removal Efficiency and Monitoring Requirements.	11/29/94	01/26/96 61 FR 2419	
Appendix "E" .....	Test Methods and Compliance Procedures: Determining the Destruction or Removal Efficiency of a Control Device.	1/11/93	5/3/95 60 FR 21707	
Appendix "F" .....	Test Methods and Compliance Procedures: Leak Detection Methods for Volatile Organic Compounds (VOCs).	1/11/93	5/3/95 60 FR 21707	
Appendix "G" .....	Performance Specifications for Continuous Emissions Monitoring of Total Hydrocarbons.	1/11/93	5/3/95 60 FR 21707	
Appendix "H" .....	Quality Control Procedures for Continuous Emission Monitoring Systems (CEMS).	1/11/93	5/3/95 60 FR 21707	
Appendix "I" .....	Method to Determine Length of Rolling Period for Liquid-Liquid Material Balance Method.	11/29/94	01/26/96 61 FR 2419	
Appendix "J" .....	Procedures for Implementation of Regulations Covering Stage II Vapor Recovery Systems for Gasoline Dispensing Facilities.	1/11/93	6/10/94 59 FR 29956	
Appendix "J1" .....	Certified Stage II Vapor Recovery Systems.	1/11/93	6/10/94 59 FR 29956	
Appendix "J2" .....	Pressure Decay/Leak Test Procedure for Verification of Proper Functioning of Stage I & Stage II Vapor Recovery Equipment.	1/11/93	6/10/94 59 FR 29956	

## EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Appendix "J3" .....	Dynamic Backpressure (Dry) Test and Liquid Blockage (Wet) Test Procedure for Verification of Proper Functioning of Stage II Vapor Balance Recovery Systems.	1/11/93	6/10/94 59 FR 29956	
Appendix "K" .....	Emission Estimation Methodologies .....	11/29/94	01/26/96 61 FR 2419	
Appendix "L" .....	Method to Determine Total Organic Carbon for Offset Lithographic Solutions.	11/29/94	01/26/96 61 FR 2419	
Appendix "M" .....	Test Method for Determining the Performance of Alternative Cleaning Fluids.	11/29/94	01/26/96 61 FR 2419	
<b>Regulation 25—Requirements for Preconstruction Review</b>				
Section 1 .....	General Provisions .....	1/1/93 (As Revised 5/1/99)	2/7/01 66 FR 9211	Excluding §§ 1.2, 1.6, 1.9(L), 1.9(M), 1.9(N), 1.9(O), which relate to Prevention of Significant Deterioration.
Section 2 .....	Emission Offset Provisions (EOP) .....	1/1/93 (As Revised 5/1/99)	2/7/01 66 FR 9211	
Section 3 .....	Prevention of Significant Deterioration of Air Quality.	5/15/90	01/27/93 58 FR 26689	
<b>Regulation 26—Motor Vehicle Emissions Inspection Program</b>				
Section 1 .....	Applicability and Definitions .....	2/12/01	11/27/03 68 FR 66343	Regulation 26 provisions apply to Sussex County only, effective November 1, 1999.
Section 2 .....	General Provisions .....	2/12/01	11/27/03 68 FR 66343	
Section 3 .....	Registration Requirement .....	5/9/85	12/08/86 51 FR 44068	
Section 4 .....	Exemptions .....	2/12/01	11/27/03 68 FR 66343	
Section 5 .....	Enforcement .....	7/6/82	10/17/83 48 FR 46986	
Section 6 .....	Compliance, Waivers, Extensions of Time.	2/12/01	11/27/03 68 FR 66343	
Section 7 .....	Inspection Facility Requirements .....	7/6/82	10/17/83 48 FR 46986	
Section 8 .....	Certification of Motor Vehicle Officers ....	7/6/82	10/17/83 48 FR 46986	
Section 9 .....	Calibration and Test Procedures and Approved Equipment.	2/12/01	11/27/03 68 FR 66343	
Technical Memorandum 1 .....	Delaware Division of Motor Vehicles Vehicle Exhaust Emissions Test.	2/12/01	11/27/03 68 FR 66343	
<b>Regulation 27—Stack Heights</b>				
Section 1 .....	General Provisions .....	4/18/83	09/21/83 48 FR 42979	
Section 2 .....	Definitions Specific to this Regulation ....	12/7/88	06/29/90 55 FR 26689	

## EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 3 .....	Requirements for Existing and New Sources.	2/18/87	06/29/90 55 FR 26689	
Section 4 .....	Public Notification .....	2/18/87	06/29/90 55 FR 26689	
<b>Regulation 31—Low Enhanced Inspection and Maintenance Program</b>				
Section 1 .....	Applicability .....	10/11/01	11/27/03 68 FR 66343	
Section 2 .....	Low Enhancement I/M performance standard.	10/11/01	1/27/03 68 FR 66343	
Section 3 .....	Network Type and program evaluation ..	10/11/01	11/27/03 68 FR 66343	
Section 4 .....	Test Frequency and Convenience .....	6/11/99	9/30/99 64 FR 52657	
Section 5 .....	Vehicle Coverage .....	10/11/01	11/27/03 68 FR 66343	
Section 6 .....	Test Procedures and Standards .....	10/11/01	11/27/03 68 FR 66343	
Section 7 .....	Waivers and Compliance via Diagnostic Inspection.	10/11/01	11/27/03 68 FR 66343	
Section 8 .....	Motorist Compliance Enforcement .....	10/11/01	11/27/03 68 FR 66343	
Section 9 .....	Enforcement Against Operators and Motor Vehicle Techniques.	10/11/01	11/27/03 68 FR 66343	
Section 10 .....	Improving Repair Effectiveness .....	8/13/98	9/30/99 64 FR 52657	
Section 11 .....	Compliance with Recall Notices .....	8/13/98	9/30/99 64 FR 52657	
Section 12 .....	On-Road Testing .....	8/13/98	9/30/99 64 FR 52657	
Section 13 .....	Implementation Deadlines .....	10/11/01	11/27/03 68 FR 66343	
Appendix 1(d) .....	Commitment to Extend the I/M Program to the Attainment Date From Secretary Tulou to EPA Administrator W. Michael McCabe.	8/13/98	9/30/99 64 FR 52657	
Appendix 3(a)(7) .....	Exhaust Emission Limits According to Model Year.	8/13/98	9/30/99 64 FR 52657	
Appendix 3(c)(2) .....	VMASTM Test Procedure .....	6/11/99	9/30/99 64 FR 52657	
Appendix 4(a) .....	Sections from Delaware Criminal and Traffic Law Manual.	8/13/98	9/30/99 64 FR 52657	
Appendix 5(a) .....	Division of Motor Vehicles Policy on Out of State Renewals.	8/13/98	9/30/99 64 FR 52657	
Appendix 5(f) .....	New Model Year Clean Screen .....	10/11/01	11/27/03 68 FR 66343	
Appendix 6(a) .....	Idle Test Procedure .....	10/11/01	11/27/03 68 FR 66343	

## EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Appendix 6(a)(5) .....	Vehicle Emission Repair Report Form ...	8/13/98	9/30/99 64 FR 52657	
Appendix 6(a)(8) .....	Evaporative System Integrity (Pressure) Test.	10/11/01	11/27/03 68 FR 66343	
Appendix 6(a)(9) .....	Onboard Diagnostic Test Procedure OBD II Test Procedure.	10/11/01	11/27/03 68 FR 66343	
Appendix 7(a) .....	Emission Repair Technician Certification Process.	8/13/98	9/30/99 64 FR 52657	
Appendix 8(a) .....	Registration Denial System Requirements Definition.	8/13/98	9/30/99 64 FR 52657	
Appendix 9(a) .....	Enforcement Against Operators and Inspectors.	10/11/01	11/27/03 68 FR 66343	

**Regulation 35—Conformity of General Federal Actions to the State Implementation Plans**

Section 1 .....	Purpose .....	8/14/96	7/15/97 62 FR 37722	
Section 2 .....	Definitions .....	8/14/96	07/15/97 62 FR 37722	
Section 3 .....	Applicability .....	8/14/96	07/15/97 62 FR 37722	
Section 4 .....	Conformity Analysis .....	8/14/96	07/15/97 62 FR 37722	
Section 5 .....	Reporting Requirements .....	8/14/96	07/15/97 62 FR 37722	
Section 6 .....	Public Participation and Consultation .....	8/14/96	07/15/97 62 FR 37722	
Section 7 .....	Frequency of Conformity Determinations	8/14/96	07/15/97 62 FR 37722	
Section 8 .....	Criteria for Determining Conformity of General Federal Actions.	8/14/96	07/15/97 62 FR 37722	
Section 9 .....	Procedures for Conformity Determinations of General Federal Actions.	8/14/96	07/15/97 62 FR 37722	
Section 10 .....	Mitigation of Air Quality Impacts .....	8/14/96	07/15/97 62 FR 37722	
Section 11 .....	Savings Provision .....	8/14/96	07/15/97 62 FR 37722	

**Regulation 37—NO<sub>x</sub> Budget Program**

Section 1 .....	General Provisions .....	12/11/99	3/9/00 65 FR 12481	
Section 2 .....	Applicability .....	12/11/99	3/9/00 65 FR 12481	
Section 3 .....	Definitions .....	12/11/99	3/9/00 65 FR 12481	
Section 4 .....	Allowance Allocation .....	12/11/99	3/9/00 65 FR 12481	
Section 5 .....	Permits .....	12/11/99	3/9/00 65 FR 12481	

## EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 6 .....	Establishment of Compliance Accounts	12/11/99	3/9/00 65 FR 12481	
Section 7 .....	Establishment of General Accounts .....	12/11/99	3/9/00 65 FR 12481	
Section 8 .....	Opt In Provisions .....	12/11/99	3/9/00 65 FR 12481	
Section 9 .....	New Budget Source Provisions .....	12/11/99	3/9/00 65 FR 12481	
Section 10 .....	NO <sub>x</sub> Allowance Tracking System (NATS).	12/11/99	3/9/00 65 FR 12481	
Section 11 .....	Allowance Transfer .....	12/11/99	3/9/00 65 FR 12481	
Section 12 .....	Allowance Banking .....	12/11/99	3/9/00 65 FR 12481	
Section 13 .....	Emission Monitoring .....	12/11/99	3/9/00 65 FR 12481	
Section 14 .....	Recordkeeping .....	12/11/99	3/9/00 65 FR 12481	
Section 15 .....	Emissions Reporting .....	12/11/99	3/9/00 65 FR 12481	
Section 16 .....	End-of-Season Reconciliation .....	12/11/99	3/9/00 65 FR 12481	
Section 17 .....	Compliance Certification .....	12/11/99	3/9/00 65 FR 12481	
Section 18 .....	Failure to Meet Compliance Requirements.	12/11/99	3/9/00 65 FR 12481	
Section 19 .....	Program Audit .....	12/11/99	3/9/00 65 FR 12481	
Section 20 .....	Program Fees .....	12/11/99	3/9/00 65 FR 12481	
Appendix "A" .....	NO <sub>x</sub> Budget Program .....	12/11/99	3/9/00 65 FR 12481	

**Regulation 39—Nitrogen Oxides (NO<sub>x</sub>) Budget Trading Program**

Section 1 .....	Purpose .....	12/11/00	5/17/01 66 FR 27459	
Section 2 .....	Emission Limitation .....	12/11/00	5/17/01 66 FR 27459	
Section 3 .....	Applicability .....	12/11/00	5/17/01 66 FR 27459	
Section 4 .....	Definitions .....	12/11/00	5/17/01 66 FR 27459	
Section 5 .....	General Provisions .....	12/11/00	5/17/01 66 FR 27459	
Section 6 .....	NO <sub>x</sub> Authorized Account Representative for NO <sub>x</sub> Budget Sources.	12/11/00	5/17/01 66 FR 27459	

## EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 7 .....	Permits .....	12/11/00	5/17/01 66 FR 27459	
Section 8 .....	Monitoring and Reporting .....	12/11/00	5/17/01 66 FR 27459	
Section 9 .....	NATS .....	12/11/00	5/17/01 66 FR 27459	
Section 10 .....	NO <sub>x</sub> Allowance Transfers .....	12/11/00	5/17/01 66 FR 27459	
Section 11 .....	Compliance Certification .....	12/11/00	5/17/01 66 FR 27459	
Section 12 .....	End-of-Season Reconciliation .....	12/11/00	5/17/01 66 FR 27459	
Section 13 .....	Failure to Meet Compliance Requirements.	12/11/00	5/17/01 66 FR 27459	
Section 14 .....	Individual Unit Opt-Ins .....	12/11/00	5/17/01 66 FR 27459	
Section 15 .....	General Accounts .....	12/11/00	5/17/01 66 FR 27459	
Appendix A .....	Allowance Allocations to NO <sub>x</sub> Budget Units Under Section 3(a)(1)(i) and 3(a)(1)(ii) of sRegulation No. 39.	12/11/00	5/17/01 66 FR 27459	
Appendix B .....	Regulation No. 37—Regulation No. 39 Program Transition.	12/11/00	5/17/01 66 FR 27459	
<b>Regulation 40—Delaware's National Low Emission Vehicle (NLEV) Regulation</b>				
Section 1 .....	Applicability .....	10/11/99	12/28/99 64 FR 72564	Issued on September 1, 1999 by Secretary's Order No. 99-A-0046.
Section 2 .....	Definitions .....	10/11/99	12/28/99 64 FR 72564	
Section 3 .....	Program Participation .....	10/11/99	12/28/99 64 FR 72564	
<b>Regulation 41—Limiting Emissions of Volatile Organic Compounds From Consumer and Commercial Products</b>				
Section 1 .....	Architectural and Industrial Maintenance Coatings.	03/11/02	11/22/02 67 FR 70315	
Section 2 .....	Commercial Products .....	01/11/02	11/22/02 67 FR 70315	
Section 3 .....	Portable Fuel Containers .....	11/11/01	11/22/02 67 FR 70315	
<b>Regulation 42—Specific Emission Control Requirements</b>				
Section 1 .....	Control of (NO <sub>x</sub> ) Emissions from Nitrogen Industrial Boilers.	12/11/01	11/22/02 67 FR 70315	

(d) EPA approved State source specific requirements.

## EPA-APPROVED REGULATIONS IN THE DELAWARE SIP

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Getty Oil Co .....	75-A-4 .....	8/5/75	3/7/79 44 FR 12423	52.420(c)(11).
Phoenix Steel Co.—Electric Arc Furnaces Charging & Tapping #2.	77-Ac-8 .....	12/2/77	7/30/79 44 FR 25223	52.420(c)(12).
Delmarva Power & Light—Indian River.	89-A-7/ APC 89/197 .....	2/15/89	1/22/90 55 FR 2067	52.420(c)(38).
SPI Polyols, Inc. ....	Secretary's Order No. 2000-A-0033 ....	07/11/00	6/14/01 66 FR 32231	Polyhydrate Alcohol's Catalyst Regenerative Process—Approved NO <sub>x</sub> RACT Determination.
Citisteel .....	Secretary's Order No. 2000-A-0033 ....	07/11/00	6/14/01 66 FR 32231	Electric Arc Furnace—Approved NO <sub>x</sub> RACT Determination.
General Chemical Corp .....	Secretary's Order No. 2000-A-0033 ....	07/11/00	6/14/01 66 FR 32231	(1) Sulfuric Acid Process & Interstage Absorption System. (2) Metallic Nitrite Process—Approved NO <sub>x</sub> RACT Determinations.

(e) EPA-approved non-regulatory and quasi-regulatory material.

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
Commitment to adopt a clean fuel fleet program.	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	2/26/93	9/29/93 58 FR 50846	52.422 (b).
1990 Base Year Emissions Inventory .....	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	5/27/94	1/24/96 61 FR 1838	52.423 VOC, CO, NO <sub>x</sub> .
15% Rate of Progress Plan .....	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	2/17/95	10/12/99 64 FR 55139	52.426(a).
Post-1996 Rate of Progress Plan & contingency measures.	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	12/29/97 6/17/99 2/3/00 12/20/00	10/29/01 66 FR 54598	52.426(b).
Ozone Attainment Plan Demonstration & enforceable commitments.	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	5/22/98 10/8/98 1/24/00 12/20/00 10/9/01 9/2/03	10/29/01 66 FR 54598  12/5/03 68 FR 6794	52.426(c).
Mobile budgets .....	Kent & New Castle Counties .....	*1/5/98 *5/28/98 2/3/00 12/20/00 9/2/03	10/29/01 66 FR 54598  12/5/03 68 FR 67948	52.426(d), (e).
Photochemical Assessment Monitoring Stations (PAMS) Program.	Philadelphia-Wilmington-Trenton Ozone Nonattainment Area.	3/24/94	9/11/95 60 FR 47081	52.430.
Small Business stationary source technical and environmental compliance assistance program.	Statewide .....	5/16/95	5/17/94 59 FR 25771	52.460.



Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
Commitment to establish an ambient air quality monitoring network.	Statewide .....	3/19/80	5/15/81 46 FR 26767	52.465(c)(15).
Commitment to use available grants and funds to provide for basic transportation needs...	New Castle County .....	8/15/79	9/30/81 46 FR 47777	52.465(c)(19).
Executive order pertaining to financial disclosures by State officials [CAA Section 128].	Statewide .....	8/7/78	9/29/81 46 FR 47544	52.465(c)(22).
Lead (Pb) SIP .....	Statewide .....	12/23/80	9/10/81 46 FR 45160	52.465(c)(24).
Procedures to notify EPA of PSD sources locating within 100 km of a Class I PSD area.	Statewide .....	2/27/81	3/15/82 47 FR 11014	52.465(c)(29).

\* (rec'd).

[FR Doc. 04-13850 Filed 6-18-04; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 70

[Regional Docket Nos. II-2002-03, -04, -12; FRL -7776-3]

#### Clean Air Act Operating Permit Program; Petitions for Objection to State Operating Permits for Sirmos Division of Bromante; the New York City Transit Authority's East New York Bus Depot; and the New York Organic Fertilizer Company

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

**ACTION:** Notice of final orders on petitions to object to three State operating permits.

**SUMMARY:** This document announces that the EPA Administrator has responded to three citizen petitions asking EPA to object to operating permits issued to three facilities by the New York State Department of Environmental Conservation (NYSDEC). Specifically, the Administrator has partially granted and partially denied each of the petitions submitted by the New York Public Interest Research Group (NYPIRG) to object to each of the State operating permits issued to the following facilities: Sirmos Division of Bromante Corp. (Sirmos) in Long Island City, NY; New York City Transit Authority's (NYCTA) East NY Bus Depot in Brooklyn, NY; and New York Organic Fertilizer Company's

(NYOFCO) sludge pelletization facility in the Bronx, NY.

Pursuant to section 505(b)(2) of the Clean Air Act (Act), Petitioner may seek judicial review of those portions of the petitions which EPA denied in the United States Court of Appeals for the appropriate circuit. Any petition for review shall be filed within 60 days from the date this notice appears in the **Federal Register**, pursuant to section 307 of the Act.

**ADDRESSES:** You may review copies of the final orders, the petitions, and other supporting information at the EPA Region 2 Office, 290 Broadway, New York, New York 10007-1866. If you wish to examine these documents, you should make an appointment at least 24 hours before visiting day. Additionally, the final orders for Sirmos, the NYCTA, and NYFCO are available electronically at: <http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitiondb2002.htm>.

**FOR FURTHER INFORMATION CONTACT:** Steven Riva, Chief, Permitting Section, Air Programs Branch, Division of Environmental Planning and Protection, EPA, Region 2, 290 Broadway, 25th Floor, New York, New York 10007-1866, telephone (212) 637-4074.

**SUPPLEMENTARY INFORMATION:** The Act affords EPA a 45-day period to review, and object to as appropriate, operating permits proposed by State permitting authorities. Section 505(b)(2) of the Act authorizes any person to petition the EPA Administrator within 60 days after the expiration of this review period to object to State operating permits if EPA has not done so. Petitions must be based only on objections to the permit that were raised with reasonable specificity

during the public comment period provided by the State, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

#### I. Sirmos

On April 11, 2002, the EPA received a petition from NYPIRG, requesting that EPA object to the issuance of the title V operating permit for Sirmos. The petition raises issues regarding the permit application, the permit issuance process, and the permit itself. NYPIRG asserts that: (1) The permit was issued without adequate opportunity for public comment through a public hearing; (2) the permit is based on an inadequate permit application; (3) the permit lacks an adequate statement of basis; (4) the permit distorts the annual certification requirements; (5) the permit does not require prompt reporting of all deviations; (6) the permit's startup/shutdown, malfunction, maintenance, and upset provision violates part 70; (7) the emergency defense provision is in violation of 40 CFR 70.6(g); (8) the permit lacks federally enforceable conditions that govern the procedures for permit renewal; and (9) the permit lacks monitoring that is sufficient to assure the facility's compliance with all applicable requirements and many individual permit conditions are not practicably enforceable. On May 24, 2004, the Administrator issued an order partially granting and partially denying the petition on Sirmos. The order explains the reasons behind EPA's conclusion that the NYSDEC must reopen the permit to: (1) Include adequate monitoring to assure