

National Environmental Policy Act of 1969.

#### List of Subjects in 15 CFR Part 280

Business and industry, Imports, Laboratories, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, the National Institute of Standards and Technology and the United States Patent and Trademark Office amend 15 CFR part 280, subpart D, as follows:

#### PART 280—FASTENER QUALITY

■ 1. The authority citation for part 280 continues to read:

**Authority:** 15 U.S.C. 5401 *et seq.*

#### Subpart D—Recordal of Insignia

■ 2. Section 280.310 is amended by revising paragraph (d) to read as follows:

##### § 280.310 Application for insignia.

\* \* \* \* \*

(d) Applications and other documents should be addressed to: Director, United States Patent and Trademark Office, ATTN: FQA, 600 Dulany Street, MDE-10A71, Alexandria, VA 22314-5793.

■ 3. Section 280.323 is amended by revising paragraph (a) to read as follows:

##### § 280.323 Transfer or assignment of the trademark registration or recorded insignia.

(a) A trademark application or registration which forms the basis of a fastener recordal may be transferred or assigned. Any transfer or assignment of such an application or registration must be recorded in the United States Patent and Trademark Office within three months of the transfer or assignment. A copy of such transfer or assignment must also be sent to: Director, United States Patent and Trademark Office, ATTN: FQA, 600 Dulany Street, MDE-10A71, Alexandria, VA 22314-5793.

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Dated: May 24, 2007.

**Jon W. Dudas,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

Dated: May 29, 2007.

**James M. Turner,**

*Deputy Director, National Institute of Standards and Technology.*

[FR Doc. E7-10707 Filed 6-1-07; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2005-SC-0003, EPA-R04-OAR-2005-SC-0005-200620c; FRL-8321-4]

#### Approval and Promulgation of Implementation Plans; South Carolina: Revisions to State Implementation Plan; Clarification

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

**ACTION:** Final rule; clarification.

**SUMMARY:** EPA is clarifying its approval of revisions to the South Carolina State Implementation Plan (SIP), published in the **Federal Register** on December 7, 2006. EPA's action modified South Carolina's federally approved Regulation 61-62.1 "Definitions and General Requirements," by revising the definition of Volatile Organic Compounds (VOC). This action merely clarifies the list of compounds which are excluded from the definition of VOC.

**DATES:** This action is effective June 4, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2005-SC-0005. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Stacy Harder, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The

telephone number is (404) 562-9042. Ms. Harder can also be reached via electronic mail at [harder.stacy@epa.gov](mailto:harder.stacy@epa.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. What Is the Background for This Action?

Through a direct final rulemaking, published in the **Federal Register** on December 7, 2006, (71 FR 70880), EPA approved revisions to the South Carolina SIP. These revisions were submitted on October 24, 2005, by the South Carolina Department of Health and Environmental Control (SC DHEC). The purpose of EPA's action was to revise the definition of VOC. Specifically, that SIP revision updated the nomenclature for compounds excluded from the definition of VOC in SC Regulation 61-62.1, to be consistent with the Federal rule published on November 29, 2004, (69 FR 69298). It also added four compounds to the list of those excluded from the definition of VOC, on the basis that they make a negligible contribution to ozone formation, also consistent with the Federal rule. Additionally, the revision added the compound *t*-butyl acetate (TBAC or TBac) to the list of compounds excluded from the definition of VOC for purposes of emissions limitations or VOC content requirements. EPA is clarifying the action taken on December 7, 2006, due to feedback that the rulemaking was not clear in its intent.

#### II. EPA's Action

The purpose of this action is only to clarify a previous action and no substantial changes are being made. Below is the list of the compounds presented in the December 7, 2006, rulemaking, which updates the nomenclature for the following compounds excluded from the definition of VOC in the South Carolina SIP:

- (CF<sub>3</sub>)<sub>2</sub>CFCF<sub>2</sub>OC<sub>2</sub>H<sub>5</sub> to (2-(ethoxydifluoromethyl)-(1,1,1,2,3,3,3-heptafluoropropane)
- CFC-113 (1,1,2-trichloro-1,2,2-trifluoroethane)
- CFC-114 (1,2-dichloro-1,1,2,2-tetrafluoroethane)
- HCFC-123 (1,1,1-trifluoro-2,2-dichloroethane)
- HCFC-134a (1,1,1,2-tetrafluoroethane)
- HCFC-141b (1,1-dichloro-1-fluoroethane)
- HCFC-142b (1-chloro-1,1-difluoroethane)
- HFE-7100 (1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxybutane) or (C<sub>4</sub>F<sub>9</sub>OCH<sub>3</sub>)

• HFE-7200 (1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane) or (C<sub>4</sub>F<sub>9</sub>OOC<sub>2</sub>H<sub>5</sub>)

• Methylene chloride (dichloromethane)

• Perchloroethylene

(tetrachloroethylene); and

perfluorocarbon compounds that fall into these classes:

(i) Cyclic, branched, or linear, completely fluorinated alkanes;

(ii) cyclic, branched, or linear, completely fluorinated alkanes;

(iii) cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(iv) sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

Additionally, the 2006 action added the following five compounds to the list of those excluded from the definition of VOC:

• HFE-7000 (1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane) or (n-C<sub>3</sub>F<sub>7</sub>OCH<sub>3</sub>)

• HFE-7500 (3-ethoxy-1,1,1,2,3,4,4,5,5,6,6-dodecafluoro-2-(trifluoromethyl) hexane

• HFC-227ea (1,1,1,2,3,3,3-heptafluoropropane)

• Methyl formate (HCOOCH<sub>3</sub>)

• The following compound(s) are defined as VOC only for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements that apply to VOC and shall be uniquely identified in emission reports; they are not, however, defined as VOC for purposes of VOC emissions limitations or VOC content requirements: T-butyl acetate (TBAC or TBAC).

EPA has determined that today's action falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this action are unnecessary because today's action to provide clarification of those compounds exempted from the definition of VOC, has no substantive impact on EPA's December 7, 2006, approval. The clarification for the list of compounds exempted from the definition of VOC, in EPA's direct final rule published on December 7, 2006, makes no substantive difference to EPA's analysis as set out in that rule. In addition, EPA can identify no particular reason why the public would be interested in being notified of

this clarification or in having the opportunity to comment on the clarification prior to this action being finalized, since this clarification action does not change EPA's analysis for the update to the nomenclature for those compounds excluded from the definition of VOC, and the addition of five compounds to the list of those excluded from the definition of VOC.

EPA also finds that there is good cause under APA section 553(d)(3) for this clarification to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3), is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule simply clarifies EPA's December 7, 2006, rulemaking. For these reasons, EPA finds good cause under APA section 553(d)(3), for this clarification to become effective on the date of publication of this action.

### III. Statutory and Executive Order Reviews

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 clarifies the nomenclature and the list of compounds excluded from the definition of VOC in the South Carolina SIP as approved in EPA's December 7, 2006, rulemaking, 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 clarifies the nomenclature and the list of compounds excluded from the definition of VOC in the South Carolina SIP as approved in EPA's December 7, 2006, rulemaking, notice 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 clarifies the nomenclature and the list of compounds excluded from the definition of VOC in the South Carolina SIP as approved in EPA's December 7, 2006, rulemaking, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. 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 CAA. 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 CAA. 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.*).

The Congressional Review Act, U.S.C. section 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

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 August 3, 2007. 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, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 22, 2007.

**Russell L. Wright, Jr.,**

*Acting Regional Administrator, Region 4.*  
[FR Doc. E7-10696 Filed 6-1-07; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Indian Health Service

#### 42 CFR Part 136

#### Center for Medicare & Medicaid Services

#### 42 CFR Part 489

[CMS-2206-F]

RIN 0917-AA02

### Section 506 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003—Limitation on Charges for Services Furnished by Medicare Participating Inpatient Hospitals to Individuals Eligible for Care Purchased by Indian Health Programs

**AGENCY:** Indian Health Service (IHS), Center elsewhere for Medicare & Medicaid Services (CMS), Health and Human Services (HHS).

**ACTION:** Final rule.

**SUMMARY:** The Secretary of the Department of Health and Human Services (HHS) hereby issues this final rule establishing regulations required by section 506 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), (Pub. L. 108-173). Section 506 of the MMA amended section 1866 (a)(1) of the Social Security Act to add subparagraph (U) which requires hospitals that furnish inpatient hospital services payable under Medicare to participate in the contract health services program (CHS) of the Indian Health Service (IHS) operated by the IHS, Tribes, and Tribal organizations, and to participate in programs operated by urban Indian organizations that are funded by IHS (collectively referred to as I/T/Us) for any medical care purchased by those programs. Section 506 also requires such participation to be in accordance with the admission practices, payment methodology, and payment rates set forth in regulations established by the Secretary, including acceptance of no more than such payment rates as payment in full.

**DATES:** These final regulations are effective July 5, 2007.

**FOR FURTHER INFORMATION CONTACT:** Carl Harper, Director, Office of Resource Access and Partnerships, IHS, 801 Thompson Avenue, Twinbrook Metro Plaza Suite 360, Rockville, Maryland 20852, telephone (301) 443-2694. Dorothy Dupree, Director, Tribal Affairs Group, OEA, CMS, 7500 Security Boulevard, Mail Stop: C1-13-11, Baltimore, Maryland 21244, telephone (410) 786-1942. (These are not toll free numbers.)

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On April 28, 2006, IHS and CMS published proposed rules in the **Federal Register** (71 FR 25124) as mandated by section 506(c) of the MMA, which requires the Secretary to publish rules implementing the requirements of section 506 of the MMA. Under that statutory provision, hospitals that furnish inpatient hospital services payable under Medicare are required to participate both in the contract health service (CHS) program of IHS operated by IHS, Tribes, and Tribal organizations, and in programs operated by urban Indian organizations (I/T/Us) that are funded by the IHS, for medical care purchased by those programs. Section 506 also requires such participation to be in accordance with the admission practices, payment methodology, and

payment rates set forth in regulations established by the Secretary, including acceptance of no more than such rate as payment in full. The proposed rule provided interested persons until June 27, 2006 to submit written comments.

## II. Provisions of the Proposed Regulations

### a. The Proposed Rule

We proposed to amend the IHS regulations at 42 CFR part 136, by adding a new subpart D to describe the payment methodology and other requirements for Medicare-participating hospitals and critical access hospitals (CAHs) that furnish inpatient services, either directly or under arrangement, to individuals who are authorized to receive services from such hospitals under a CHS program of the IHS, Tribes, and Tribal organizations, and IHS-funded programs operated by urban Indian organizations (collectively, I/T/U programs). As provided in the statute, we also proposed to amend CMS regulations at 42 CFR part 489 to require Medicare-participating hospitals and critical access hospitals (CAHs) that furnish inpatient hospital services to individuals who are eligible for and authorized to receive items and services covered by such I/T/U programs to accept no more than the payment methodology under 42 CFR part 136, subpart D as payment in full for such items and services. The proposed rule did not include additional regulation of admission practices.

### b. Summary of Changes in the Final Rule

In reviewing several comments, IHS and CMS determined that the payment methodology in the proposed rule was not adequately explained. Therefore, we are clarifying the payment methodologies established by this regulation to include more detail. For hospital services that would be paid under prospective payment systems (PPS) by the Medicare program, the basic payment methodology under this rule is based on the applicable PPS. For example, inpatient hospital services of acute care hospitals, psychiatric hospitals, rehabilitation hospitals, and long-term care hospitals will be paid based on the same four Medicare PPS systems as would be used to pay for similar hospital services to the hospitals' Medicare patients, as described under 42 CFR part 412, while outpatient hospital services and skilled nursing facility services (SNF) will be paid based on their Medicare PPS systems, as described under 42 CFR part 419 (outpatient) and 42 CFR part 413