

■ 3. Section 52.1075 is amended by revising the section heading and by adding paragraph (i) to read as follows:

§ 52.1075 Base year emissions inventory.
* * * * *

(i) EPA approves as a revision to the Maryland State Implementation Plan the 2002 base year emissions inventories for the Baltimore 1997 8-hour ozone moderate nonattainment area submitted by the Secretary of the Maryland Department of the Environment on June 4, 2007. This submittal consists of the 2002 base year point, area, non-road

mobile, and on-road mobile source inventories in area for the following pollutants: Volatile organic compounds (VOC), carbon monoxide (CO) and nitrogen oxides (NO_x).

■ 4. Section 52.1076 is amended by adding paragraphs (q) and (r) to read as follows:

§ 52.1076 Control strategy plans for attainment and rate-of-progress: Ozone.
* * * * *

(q) EPA approves revisions to the Maryland State Implementation Plan consisting of the 2008 reasonable further

progress (RFP) plan, reasonably available control measures, and contingency measures for the Baltimore 1997 8-hour ozone moderate nonattainment area submitted by the Secretary of the Maryland Department of the Environment on June 4, 2007.

(r) EPA approves the following 2008 RFP motor vehicle emissions budgets (MVEBs) for the Baltimore 1997 8-hour ozone moderate nonattainment area submitted by the Secretary of the Maryland Department of the Environment on June 4, 2007:

TRANSPORTATION CONFORMITY EMISSIONS BUDGETS FOR THE BALTIMORE AREA

Type of control strategy SIP	Year	VOC (TPD)	NO _x (TPD)	Effective date of adequacy determination or SIP approval
Rate of Progress Plan	2008	41.2	106.8	April 13, 2009, (74 FR 13433), published March 27, 2009.

[FR Doc. 2010-13381 Filed 6-3-10; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2010-0039; FRL-9158-3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Control of Nitrogen Oxide Emissions From Industrial Boilers and Process Heaters at Petroleum Refineries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Delaware. This SIP revision consists of adding specific emission control requirements for controlling nitrogen oxide (NO_x) emissions from industrial boilers. This action is being taken under the Clean Air Act (CAA).

DATES: *Effective Date:* This final rule is effective on July 6, 2010.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2010-0039. All documents in the docket are listed in the www.regulations.gov Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (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 or in hard copy 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. Copies of the State submittal are available at the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19901.

FOR FURTHER INFORMATION CONTACT: Gregory Becoat, (215) 814-2036, or by e-mail at becoat.gregory@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 15, 2010 (75 FR 12168), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. The NPR proposed approval of the Delaware SIP revision that adds a new section (Section 2.0) to Regulation 1142—Control of Nitrogen Oxide Emissions from Industrial Boilers and Process Heaters at Petroleum Refineries in order to require new and/or additional controls on industrial boilers and process heaters with heat input capacities of equal to or greater than 200 million British thermal units per hour (mmBTU/hr). EPA received no comments on the NPR to approve Delaware's SIP revision. The formal SIP revision was submitted by the State of Delaware on November 17, 2009.

II. Summary of SIP Revision

Regulation 1142 (formerly SIP Regulation No. 42) establishes applicability and compliance dates to

any industrial boiler or process heater with a maximum heat input capacity of equal to or greater than 200 mmBTU/hr, which is operated or permitted to operate within a petroleum refinery facility (except for any Fluid Catalytic Cracking Unit carbon monoxide (CO) boiler). Regulation 1142 establishes NO_x emission limitations for any industrial boiler or process heater with a maximum heat input capacity of equal to or greater than 200 mmBTU/hr, which is operated or permitted to operate within a petroleum refinery facility. The regulation also requires compliance with monitoring, recordkeeping, and reporting requirements.

III. Final Action

EPA is approving the Delaware SIP revision that adds a new section, Section 2—Control of Nitrogen Oxide Emissions from Industrial Boilers and Process Heaters at Petroleum Refineries to Delaware's Regulation 1142—Specific Emission Control Requirements for controlling NO_x emissions from industrial boilers.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not

impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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).

C. Petitions for Judicial 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 August 3, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, pertaining to the State of Delaware’s Regulation 1142—Specific Emission Control Requirements for controlling NOx emissions from industrial boilers, 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, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 21, 2010.

William C. Early,
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 table in paragraph (c) is amended by:

■ A. Removing the title entry for Regulation No. 42—Specific Emission Control Requirements and adding in its place a title entry for Regulation 1142; and

■ B. Adding an entry for Section 2.0.

The amendments read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE DELAWARE SIP

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
Regulation 1142—Specific Emission Control Requirements (Formerly Regulation No. 42)				
Section 2.0	Specific Emission Control Requirements.	11/11/09	6/4/10 [Insert page number where the document begins].	Emission limitations for any industrial boiler or process heater with a maximum heat input capacity of equal to or greater than 200 mmBTU/hr.
*	*	*	*	*

[FR Doc. 2010-13377 Filed 6-3-10; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2010-0033; FRL-8827-4]

2-Propanoic acid polymer, with 1,3-butadiene and ethenylbenzene; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of 2-propanoic acid polymer, with 1,3-butadiene and ethenylbenzene, minimum number average molecular weight (in AMU) 9400 (CAS Reg. No. 25085-39-6); when used as an inert ingredient in a pesticide chemical formulation under 40 CFR 180.960. BASF Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of 2-propanoic acid polymer, with 1,3-butadiene and ethenylbenzene on food or feed commodities.

DATES: This regulation is effective June 4, 2010. Objections and requests for hearings must be received on or before August 3, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2010-0033. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The

Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Elizabeth Fertich, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 347-8560; e-mail address: fertich.elizabeth@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Electronic Access to Other Related Information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at <http://www.gpoaccess.gov/ecfr>.

C. Can I File an Objection or Hearing Request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2010-0033 in the subject line on the first page of your submission. All

objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before August 3, 2010. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA-HQ-OPP-2010-0033, by one of the following methods.

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- **Mail:** Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- **Delivery:** OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

II. Background and Statutory Findings

In the **Federal Register** of March 19, 2010 (75 FR 13277) (FRL-8813-2), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP 9E7649) filed by BASF Corporation, 100 Campus Drive, Florham Park, NJ 07932. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of 2-propanoic acid polymer, with 1,3-butadiene and ethenylbenzene, minimum number average molecular weight (in AMU) 9400; CAS Reg. No. 25085-39-6. That notice included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency did not receive any comments in the docket. However, the Agency did receive one comment by e-mail. The comment was received from a private citizen who opposed the authorization to sell any pesticide that leaves a residue on food. The Agency understands the commenter's concerns