



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2012-0073; FRL-9790-4]

**Approval and Promulgation of Air Quality Implementation Plans;
Illinois; Small Container Exemption from VOC Coating Rules**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the Illinois State Implementation plan (SIP) submitted by the Illinois Environmental Protection Agency (Illinois EPA) on November 14, 2011. This SIP revision consists of amendments to the Illinois Administrative Code (Ill. Adm. Code) by adding a "small container exemption" for pleasure craft surface coating operations in the Chicago and Metro-East St. Louis 8-hour ozone nonattainment areas. These exemptions are approvable because they are consistent with EPA volatile organic compound (VOC) reasonably available control technology (RACT) policy.

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2012-0073. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information may not be 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 at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Steven Rosenthal, Environmental Engineer, at (312) 886-6052 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6052.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. What Public Comments Were Received on the Proposed Approval and What is EPA's Response?

II. What Action is EPA Taking Today?

III. Statutory and Executive Order Reviews.

I. What Public Comments Were Received on the Proposed Approval and What is EPA's Response?

A comment was submitted on April 16, 2012, by a Kentucky resident. As a result of this comment, the direct final approval published on April 16, 2012, (77 FR 22497) was withdrawn. His comment is that EPA should determine, pursuant to Clean Air Act (CAA) section 110(l), what impact this exemption will have on St. Louis and Chicago attaining the 2008 National Ambient Air Quality Standard (NAAQS) as soon as practicable before EPA can approve this revision.

EPA response

As stated in the direct final approval, and included here as background to EPA's response, EPA previously approved sections 218.208(c) and 219.208(c) which specify that Illinois' surface coating VOC emission limitations shall not apply to touch-up and repair coatings used by a can, coil, vinyl, metal furniture and magnet wire coating operation, provided that the source-wide volume of such coatings used does not exceed 1 quart per 8-hour period or exceed 55 gallons/year for any rolling 12 month period. (61 FR 5511 on February 13, 1996). The SIP revision which is the subject of this action extends the exemption in 218.208(c) and 219.208(c) to the pleasure craft

surface coating limits set out in sections 218.204(q)(5) and 219.204(q)(5). Illinois' SIP revision also amends 35 Ill. Adm. Code 218.208(e) and 219.208(e), the recordkeeping and reporting provisions, to add pleasure craft coating operations that are exempted from the limitations in 218.204(q) and 219.204(q) to the coating operations subject to recordkeeping requirements. Sections 218.208(e) and 219.208(e) contain sufficient recordkeeping requirements to establish whether these exemptions have been exceeded.

In 2010 and 2011 Illinois promulgated rules on VOC RACT emission limitations for coating operations (See November 30, 2011 proposed approval at 76 FR 74014). During that rulemaking, the American Coatings Association (ACA) commented to Illinois EPA that many VOC coating regulations include a small container exemption not to exceed a liter or a quart. The ACA stated that the basis for these exemptions is to allow for small repairs and touch ups to existing coatings at the end of the painting line to avoid having to completely recoat the product, thus resulting in lower VOC emissions overall from pleasure craft coating operations.

In direct response to the comment, EPA has determined that this exemption will not interfere with St. Louis and Chicago attaining the 2008 ozone NAAQS for the following reasons:

1) Illinois EPA is not aware of any subject sources in the Chicago and Metro East (St. Louis) 2008 ozone nonattainment areas.

2) One quart of touch up coating per day (55 gallons per year) is a de minimis amount.

3) The exemption is consistent with Illinois RACT rules for similar coating operations, including can, coil, vinyl, metal furniture, and magnet wire coatings.

4) Illinois EPA and ACA agree that the exemption may reduce VOC emissions by encouraging repairs and touch ups, as opposed to performing complete re-coats.

II. What Action is EPA Taking.

EPA is approving the State's request to add a "small container exemption" for pleasure craft surface coating operations in the Chicago and Metro-East St. Louis 8-hour ozone nonattainment areas for the reasons stated above.

III. Statutory and Executive Order Reviews.

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.

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).

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 [FEDERAL REGISTER OFFICE: INSERT DATE 60 DAYS FROM DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]. 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 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, Intergovernmental relations,
Volatile organic compounds.

Dated: March 4, 2013

Susan Hedman,
Regional Administrator, Region 5.

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.*

2. § 52.720 is amended by adding paragraph (c)(194) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(194) On November 14, 2011, the Illinois Environmental Protection Agency (Illinois EPA) submitted amendments to 35 Illinois Administrative Code 218.208 and 219.208. These sections add a "small container exemption" for pleasure craft surface coating operations in the Chicago and Metro-East St. Louis 8-hour ozone nonattainment areas. These exemptions are consistent with EPA volatile organic compound (VOC) reasonably available control technology (RACT) policy.

(i) Incorporation by reference. The following sections of Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter 1: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, are incorporated by reference.

(A) Part 218: Organic Material Emission Standards and Limitations for the Chicago Area, Subpart F: Coating Operations, Section 218.208 Exemptions From Emission Limitations; effective October 25, 2011.

(B) Part 219: Organic Material Emission Standards and Limitations for the Metro East Area, Subpart F: Coating Operations, Section 219.208 Exemptions From Emission Limitations; effective October 25, 2011.

[FR Doc. 2013-08948 Filed 04/18/2013 at 8:45 am; Publication Date: 04/19/2013]