



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2019-0246; FRL-9999-41-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Amendments to the Control of Emissions of Volatile Organic Compounds from Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the District of Columbia's (the District) state implementation plan (SIP) submitted on August 29, 2018. The portion of the District's SIP revision being approved is an update to the 2002 Mobile Equipment Repair and Refinishing (MERR) model rule to incorporate the Ozone Transport Commission's (OTC) 2009 Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations regulations (MVMERR) model rule, which was adopted by the District in 2016. The MVMERR rules establish volatile organic compounds (VOC) content limits for coating and cleaning solvents used in vehicle refinishing and standards for coating application, work practices, monitoring, and recordkeeping. The remaining part of the August 29, 2018 SIP revision addressed the District's VOC Reasonably Available Control Technology (RACT) requirements for the 2008 ozone national ambient air quality standards (NAAQS). EPA will address the VOC RACT portion of the SIP revision in a separate rulemaking action. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on **[insert date 30 days after date of publication in the**

Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2019-0246. All documents in the docket are listed on the <https://www.regulations.gov> website. 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 through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Gregory A. Becoat, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2036. Mr. Becoat can also be reached via electronic mail at becoat.gregory@epa.gov.

SUPPLEMENTARY INFORMATION: On August 29, 2018, the District of Columbia Department of Energy and Environment (DOEE) submitted a SIP revision for EPA approval which included the District's 2016 update to its 2002 MERR rule, found at Title 20 (Environment), District Municipal Regulations (DCMR) Subtitle A (Air Quality), Chapter 7 – Volatile Organic Compounds. The District's 2016 update revised its existing, SIP-approved 2002 MERR rule to include the OTC's 2009 MVMERR model rule. The DOEE's August 29, 2018 SIP revision also addressed all the VOC requirements of RACT set forth by the CAA for

the 2008 8-hour ozone NAAQS. The portion addressing the 2008 VOC RACT requirements will be addressed in a separate rulemaking action.

I. Background

Ozone is formed in the atmosphere by photochemical reactions between VOCs and nitrogen oxides (NO_x) in the presence of sunlight. In order to reduce these ozone concentrations, the CAA requires control of VOC and NO_x emission sources to achieve emission reductions in moderate or more serious ozone nonattainment areas.

Section 184(a) of the CAA established a single ozone transport region (OTR), comprising all or part of 12 eastern states and the District.¹ The District is part of the OTR and, therefore, must comply with the RACT requirements in section 184(b)(1)(B) and (2) of the CAA. In December 1999, EPA identified emission reduction shortfalls in several severe 1-hour ozone nonattainment areas, including those located in the OTR. As a result, the OTC developed model rules for a number of source categories. One of the model rules was to reduce VOC emissions from automotive coatings and cleaning solvents associated with non-assembly line refinishing or recoating of motor vehicles, mobile equipment, and their associated parts and components. The 2002 MERR model rule was originally approved by EPA into the District's SIP on December 23, 2004 (69 FR 76857) as part of a regional effort to attain and maintain the 1-hour ozone NAAQS. The 2009 MVMERR Model Rule is a revision of the 2002 MERR Model Rule developed by the OTC. The California Air Resources Board (CARB) Suggested Control Measure (SCM) for Automotive Coatings, published October 2005, formed the basis for the revisions to the 2009 MVMERR Model Rule.

¹ Only a portion of the Commonwealth of Virginia is included in the OTR.

II. Summary of SIP Revision and EPA Analysis

On August 29, 2018, the DOEE submitted a SIP revision which included the District's 2016 update to its 2002, SIP-approved MERR rule to incorporate the OTC's 2009 Model Rule for Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations Regulations. The OTC's 2009 MVMERR model rule was established to reduce VOC emissions from automotive coatings and cleaning solvents associated with the non-assembly line refinishing or recoating of motor vehicles, mobile equipment, and their associated parts and components and developed as part of a regional effort to attain and maintain the 8-hour ozone NAAQS and reduce 8-hour ozone levels.

The District submitted amendments to Sections 714 – Control Techniques, Section 718 – Mobile Equipment Repair and Refinishing, and Section 799 – Definitions, in order to implement the OTC's 2009 MVMERR model rule. Generally, the District's amendments establish revised VOC content limits for automotive coatings and cleaning solvents used in the preparation, application, and drying phases of vehicle refinishing; as well as established coating application standards, work practices, operator training standards, and compliance and recordkeeping standards. More detailed information on these provisions, as well as a detailed summary of EPA's review and rationale for approving these SIP revisions, can be found in the notice of proposed rulemaking (NPR) for this action published on July 8, 2019 (84 FR 32356), which is also available on line at www.regulations.gov, Docket number EPA-R03-OAR-2019-0246. EPA received no public comments on the NPR.

After evaluating the SIP revision submittal, EPA concludes that the District's updated MVMERR rule in 20 DCMR Sections 714.3(a)(1), 718, and 799 are consistent with the

requirements and limits in the OTC's 2009 MVMERR model rule. The revision will continue to reduce VOC emissions from automotive coatings and cleaning solvents associated with the non-assembly line refinishing or recoating of motor vehicles, mobile equipment, and their associated parts and components and assist in the regional effort to attain and maintain the 8-hour ozone NAAQS and reduce 8-hour ozone levels.

IV. Final Action

EPA is approving the District of Columbia's August 29, 2018 SIP revision submittal that updated the District's 2002 Mobile Equipment Repair and Refinishing model rule to incorporate the OTC's 2009 Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations regulations model rule.

V. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of revisions to 20 DCMR Sections 714.3(a)(1), 718, and 799. EPA has made, and will continue to make, these materials generally available through <http://www.regulations.gov> and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.²

² 62 FR 27968 (May 22, 1997).

VI. 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because it is not a significant action under Executive Order 12866.
- 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 **[Insert date 60 days after date of publication 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, which approves the District's update to the 2002 MERR rule, 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, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: August 27, 2019.

Diana Esher,
Acting Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart J—District of Columbia

2. In § 52.470, the table in paragraph (c) is amended under “Chapter 7 Volatile Organic Compounds” by revising the entries “Section 714”, “Section 718”, and “Section 799” to read as follows:

§ 52.470 Identification of plan.

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(c) * * *

EPA-APPROVED REGULATIONS AND STATUTES IN THE DISTRICT OF COLUMBIA SIP

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
District of Columbia Municipal Regulations (DCMR), Title 20 - Environment				
*	*	*	*	*
Chapter 7 Volatile Organic Compounds				
*	*	*	*	*
Section 714	Control Techniques Guidelines	12/09/16	<u>[Insert date of publication in the Federal Register], [Insert Federal Register citation]</u>	Revised.

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 718	Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations	12/09/16	<u>[Insert date of publication in the Federal Register], [Insert Federal Register citation]</u>	Title Changed. Revised.
Section 799	Definitions	12/09/16	<u>[Insert date of publication in the Federal Register], [Insert Federal Register citation]</u>	Revised. Previous Approval dated 4/29/13.

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[FR Doc. 2019-19407 Filed: 9/9/2019 8:45 am; Publication Date: 9/10/2019]