

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[R03-OAR-2004-DC-0007; FRL-7854-9]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; VOC Emission Standards for AIM Coatings**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the District of Columbia (the District). This revision pertains to the volatile organic compound (VOC) emission standards for architectural and industrial maintenance (AIM) coatings in the District. This action is being taken under the Clean Air Act (CAA or the Act).

DATES: Written comments must be received on or before January 26, 2005.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03-OAR-2004-DC-0007 by one of the following methods:

A. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *Agency Web site:* <http://www.docket.epa.gov/rmepub/RME>, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. *E-mail:* morris.makeba@epa.gov.

D. *Mail:* R03-OAR-2004-DC-0007, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to RME ID No. R03-OAR-2004-DC-0007. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other

information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://www.regulations.gov) or e-mail. The EPA RME and the Federal [regulations.gov](http://www.regulations.gov) websites are an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. 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 in RME or in hard copy 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 District of Columbia Department of Public Health, Air Quality Division, 51 N Street, NE., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814-2182, or by e-mail at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION: On April 16, 2004, the District of Columbia (the District) submitted several revisions to its SIP. The SIP revisions include both new regulations and amendments to Title 20 of the District of Columbia Municipal Regulations (20 DCMR). The new regulations in Title 20 DCMR (Environment), Subtitle A: Air Quality, Chapter 7, Volatile Organic Compounds are:

(1) New Section 718—"Mobile Equipment Repair and Refinishing".

(2) New Sections 719 through 734—"Consumer Products".

(3) New Sections 735 through 741—"Portable Fuel Containers and Spouts".

(4) New Sections 742 through 748—"Solvent Cleaning".

(5) New Sections 749 through 754—"Architectural and Industrial Maintenance Coating".

The April 16, 2004 submittal also includes new definitions that were added in section 799, a new section 307 to Chapter 3—to provide for a fee penalty pursuant to section 185 of the Act, and amendments to Chapters 1, 2, 6, 7, and 8 to satisfy the Act's requirements for severe ozone nonattainment areas pursuant to the Metropolitan Washington DC 1-hour ozone nonattainment area's reclassification on January 24, 2004 from serious to severe nonattainment.

On September 20, 2004, the District supplemented its April 16, 2004 submittal. This supplemental submittal provides copies of standards that are incorporated by reference in the District's new and amended regulations and a copy of the District's responses to comments it received during its rule adoption process. On November 26, 2004, the District submitted another supplemental revision to its April 16, 2004 submittal. This supplemental submittal consists of revised versions of the new VOC regulations. These are minor revisions to the regulations which clarify the standards that are incorporated by reference and correct cross-referencing and typographical errors. This proposed action concerns only new sections 749 through 754 (AIM Coatings) and revised section 799 containing the associated definitions for the District's AIM coatings rule. The remaining SIP revisions submitted on April 16, 2004 and supplemented on September 20, 2004 and November 26, 2004 are the subjects of separate rulemaking actions.

I. Background

As stated previously, this proposed approval pertains only to the District's regulations for AIM coatings. The standards and requirements contained in the District's AIM coatings rule are based on the Ozone Transport Commission (OTC) model rule. The OTC developed control measures into model rules for a number of source categories. The OTC AIM coatings model rule is based on the existing rules developed by the California Air Resources Board, which were analyzed and modified by the OTC workgroup to

address VOC reduction needs in the Ozone Transport Region (OTR).

II. Summary of SIP Revision

The District's AIM coatings rule (sections 749 through 754) applies to any person who supplies, sells, offers for sale, or manufactures, applies or solicits the application of any AIM coating on or after January 1, 2005 within the District. The rule does not apply to the following: (1) Any AIM coating that is sold or manufactured for use outside of the District, or for shipment to other manufacturers for reformulation or repackaging; (2) any aerosol coating product; or (3) any architectural coating that is sold in a container with a volume of one liter (1.057 quarts) or less. The rule sets specific VOC content limits, in grams per liter, for AIM coating categories with a compliance date of January 1, 2005. The rule contains administrative requirements for labeling and reporting as well as text methods for demonstrating compliance. The test methods used to test coatings must be the most current approved method at the time testing is performed.

III. Proposed Action

EPA is proposing to approve a revision to the District of Columbia SIP to establish a regulation for the control of emissions from AIM coatings (sections 749 through 754), and also section 799 containing the associated definitions for the AIM coatings rule. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 (Public Law 104-4). This proposed rule also does 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), nor will it 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), because it merely proposes to approve 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 proposed rule also is not subject to Executive Order 13045 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order.

This proposed rule pertaining to the District of Columbia's AIM coatings 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.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: December 14, 2004.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 04-28200 Filed 12-23-04; 8:45 am]

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NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 830

Notification and Reporting of Aircraft Accidents or Incidents and Overdue Aircraft, and Preservation of Aircraft Wreckage, Mail, Cargo, and Records

AGENCY: National Transportation Safety Board (NTSB).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The NTSB is proposing to amend 49 *Code of Federal Regulations* (CFR) Part 830, "Notification and Reporting of Aircraft Accidents or Incidents and Overdue Aircraft, and Preservation of Aircraft Wreckage, Mail, Cargo, and Records," to include certain events that are not currently covered by the regulations. This amendment is intended to enhance aviation safety by providing the NTSB direct notification of these events so that we can investigate and take corrective actions in a timely manner.

DATES: Submit comments on or before February 25, 2005.

ADDRESSES: Mail comments concerning this proposed rule to Deepak Joshi, Lead Aerospace Engineer (Structures), National Transportation Safety Board, Room 5235, 490 L'Enfant Plaza, SW., Washington, DC 20594.

FOR FURTHER INFORMATION CONTACT: Deepak Joshi, (202) 314-6348.

SUPPLEMENTARY INFORMATION:

Proposed Revision to § 830.2, Definitions

Part 830 requires that an event that results in substantial damage to a civil or public aircraft not operated by the Armed Forces or an intelligence agency be reported to the NTSB. We are proposing to modify the current definition of *substantial damage* in