

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 51

[OAR-2005-0148; FRL- ]

[RIN ]

**Advance Notice to Solicit Comments, Data and Information for Determining the Emissions Reductions Achieved in Ozone Nonattainment and Maintenance Areas from the Implementation of Rules Limiting the VOC Content of AIM Coatings****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** By this action, EPA is soliciting comments, data and information for determining how to calculate the reductions in volatile organic compounds (VOC) emissions achieved in ozone nonattainment and maintenance areas from the implementation of rules which limit the VOC content of architectural coatings (commonly referred to as architectural industrial maintenance, or AIM, coatings). In addition to submitting comments, data and information, interested parties may also request to meet with EPA to present their recommended approaches and rationales.

**DATES:** Please submit comments, data, and information on or before **[insert date 45 days from date of publication]**. Requests to meet with EPA should be made on or before **[insert date 30 days from date of publication]**.

**ADDRESSES:** Submit your written comments, data and information, identified by Docket ID No. OAR-2005-0148, by one of the following methods:

**Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the on-line

instructions for submitting comments.

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

**E-mail:** Send electronic mail (e-mail) to EPA Docket Center at [a-and-r-Docket@epa.gov](mailto:a-and-r-Docket@epa.gov).

**Fax:** Send faxes to the EPA Docket Center at (202) 566-1741.

**Mail:** Air and Radiation Docket, U.S. Environmental Protection Agency, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Attn: Docket ID No. OAR-2005-0148, Advance Notice for Information on Determining the Emissions Reductions Achieved from Limiting the VOC Content of Architectural Coating. Please include a total of two copies.

**Hand Delivery or Courier:** EPA Docket Center (Air and Radiation Docket), U.S. Environmental Protection Agency, EPA West Building, Room B102, 1301 Constitution Avenue, NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for delivery of boxed information.

**Instructions:** Direct your comments to Docket ID No. OAR-2005-0148. The 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.epa.gov/edocket>, 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 EDOCKET, regulations.gov or e-mail. The EPA EDOCKET and the federal regulations.gov websites are “anonymous access” systems, 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 EDOCKET or 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 EDOCKET index at <http://www.epa.gov/edocket>. 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 EDOCKET or in hard copy during normal business hours at the Air and Radiation Docket, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal

holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Marcia L. Spink, Associate Director for Air Programs, Air Protection Division, Mail Code 3AP20, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, telephone (215) 814-2104, or by e-mail at [spink.marcia@epa.gov](mailto:spink.marcia@epa.gov). To schedule a meeting with EPA, please contact David Sanders, U.S. EPA, Ozone Policy & Strategies Group, Air Quality Strategies & Standards Division, Mail Code C539-02, Office of Air Quality Planning & Standards, Research Triangle Park, NC 27711, telephone (919) 541-3356, or by e-mail at [sanders.dave@epa.gov](mailto:sanders.dave@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, the terms “we” and “its” refer to the EPA.

**I. Background**

On May 13, 2005 (70 FR 25688), EPA published a final rule approving several State Implementation Plan (SIP) revisions for the District of Columbia, State of Maryland and Commonwealth of Virginia, including the post 1999-2005 Rate-of-Progress (ROP) plan for the Metropolitan Washington, DC 1-Hour Severe Ozone Nonattainment Area (the Washington area). That ROP plan relied upon, among other control measures, VOC emissions reductions from the District’s, Maryland’s and Virginia’s SIP-approved AIM

coatings rules to satisfy certain contingency measure requirements applicable to ROP plans.

These States' SIP-approved AIM coatings rules are based upon a model rule developed by the Ozone Transport Commission (OTC). The EPA's SIP approval of the District's, Virginia's and Maryland's AIM coating rules, themselves (70 FR 24959, 24970, 24979; May 12, 2005, respectively), involved no consideration or approval of an amount of VOC emissions reductions or credits achieved by those States' AIM coatings rules. Rather, EPA's basis for approval of these States' AIM coating rules, as well as Delaware's, Pennsylvania's and New York's OTC model rule-based AIM coatings rules (67 FR 70315, November 22, 2002; 69 FR 68080, November 23, 2004; and 69 FR 72118, December 13, 2004, respectively) as SIP revisions was its determination that those AIM rules are as stringent or more stringent than the otherwise applicable Federal AIM coatings rule.<sup>1</sup>

In publishing this action, EPA is not reopening its SIP approvals of any State AIM coatings rule or the Federal AIM coatings rule. The EPA is not reopening its determination that the SIP-approved State AIM rules are as stringent or more stringent than the otherwise applicable Federal AIM rule. Nor is EPA reopening its approval of the Washington area ROP plan, its decision with respect to credit for VOC reductions

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See 40 CFR, part 59, subpart D - National Volatile Organic Compound Emission Standards for Architectural Coatings; source: 63 FR 48877, September 11, 1998.

due to the State AIM rules in the Washington area ROP plan, or any SIP approval EPA has made to date in which credit for VOC reductions have been claimed due to either a State AIM coatings rule or the Federal AIM coatings rule. Please do not submit comments on any completed rulemakings.

As stated previously, however, the Washington area's post 1999-2005 ROP plan submitted by the District, Maryland and Virginia did rely upon, among other control measures, VOC emissions reductions from the three jurisdictions' AIM coatings rules to satisfy certain contingency measure requirements applicable to ROP plans. As part of EPA's proposed rulemaking process on the Washington area post 1999-2005 ROP plan, we independently performed calculations of the VOC emissions reductions achieved by implementation of the District's, Maryland's and Virginia's AIM coatings rules. The EPA did this analysis to confirm that implementation of the AIM coatings rules in Maryland, Virginia, and the District of Columbia would result in at least the amount of VOC emissions reductions relied upon by the States and the District of Columbia for those rules in the Washington area ROP plan.

During the public comment period of the proposed rule to approve the Washington area ROP plan (70 FR 2085; January 12, 2005), EPA received several comments, from both the regulated sector and the State of Maryland, related to the methodology and the associated baseline EPA employed to calculate the VOC emissions reductions from the three jurisdictions' AIM coatings rules. In the final rule approving the Washington area

post-1999-2005 ROP plan (70 FR 25688; May 13, 2005), EPA explained that it was not necessary to choose a particular methodology or baseline in order to approve the ROP plan because all of the approaches presented by EPA or the commenters resulted in calculated VOC emissions reductions from implementation of Maryland, Virginia, and the District of Columbia's AIM coatings rules sufficient to satisfy the requirements of the ROP plan.

While it was not necessary to choose a particular methodology or baseline in order for EPA to approve the Washington area post 1999-2005 ROP plan, this may not always be the case. In the future, states may design reasonable further progress, attainment and maintenance plans for ozone nonattainment areas which rely upon VOC emissions reductions from the implementation of AIM coatings rules. For consistency from state to state in the development of such plans, and in EPA's subsequent evaluation of those plans, we are soliciting comments, data, information and recommendations as to the baseline and calculation methodology for determining the emission reductions achieved from the implementation of rules which limit the VOC content of AIM coatings. The EPA is commencing this process in recognition of the need to formulate a technically sound and consistent approach that states may use to account for the VOC emissions from the AIM coatings sector in compiling base year and projection emission inventories, demonstrating reasonable further progress, and conducting modeling analyses as part of their ozone SIP planning activities. The EPA included the following paragraph in its final rule approving the Washington area's post 1999-2005 ROP plan: "However, EPA recognizes the need to

resolve conclusively how to determine the amount of VOC emission reductions achieved from the implementation of AIM coatings rules in a given ozone nonattainment area. This remains an issue of concern to the states, the regulated sector, and other interested parties. Therefore, EPA intends to conduct a separate process to solicit further comment, information and recommendations from all interested parties as to how to determine the amount of VOC emission reductions achieved from the implementation of AIM coatings rules in a given ozone nonattainment area.” By publishing this Advance Notice to Solicit Comments, Data and Information for Determining the Emissions Reductions Achieved in Ozone Nonattainment and Maintenance Areas from the Implementation of Rules Limiting the VOC Content of AIM Coatings, EPA is hereby commencing the separate process referenced in our final approval of the ROP plan for the Washington area.

Those parties interested in participating in this process by submitting comments, data information or recommendations may find the Supplementary Technical Support Document (TSD) which EPA prepared in support of the final rule approving the Washington area post-1999-2005 ROP plan (70 FR 25688; May 13, 2005) to be a useful reference with regard to these issues. This TSD presents some helpful examples of baselines and methodologies used to calculate the VOC emissions reductions achieved from the implementation of AIM coating rules.<sup>2</sup> This TSD is available, upon request, from the EPA Region 3 contact listed in the **For Further Information Contact** section of

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By citing to this Supplementary TSD as a reference, EPA is not re-opening its final rule approving the Washington area post-1999-2005 ROP plan (70 FR 25688; May 13, 2005).



this document, and is also in the EDOCKET (OAR-2005-0148-0002) for this action.

## **II. EPA's Intent Regarding the Comments, Data, Information and Recommendations**

It is EPA's intent to consider all relevant comments, data, information, and recommendations submitted to us to formulate a practicable, technically sound approach for calculating the VOC emissions achieved and creditable from the implementation of an AIM coatings rule in a given ozone nonattainment or maintenance area. As previously stated, EPA is commencing this process in recognition of the need to formulate a technically sound and consistent approach that States may use to account for the VOC emissions from the AIM coatings sector in compiling base year and projection emission inventories, demonstrating reasonable further progress, and conducting modeling analyses as part of their ozone SIP planning activities. It would also provide for consistency in EPA's subsequent evaluations of states' attainment, maintenance and progress plans that rely upon emissions reductions from the AIM coatings sector.

Once EPA receives the comments, data, and information solicited herein, we will determine the appropriate next steps. The EPA believes, at this time, the next steps will likely include rulemaking and/or guidance to provide a practicable and technically sound approach for States, and other interested parties, to use in determining the VOC emissions reductions achieved by the implementation of AIM coating rules in ozone nonattainment and maintenance areas. Any such action will be conducted using notice and comment

procedures. Once this rulemaking/guidance has been provided, it will be available for states to use in the development of future state implementation plan (SIP) revisions, if any, that rely upon VOC emissions reductions achieved by the implementation of AIM coating rules in ozone nonattainment and maintenance areas. This rulemaking/guidance will not require any state to amend previously approved SIP revisions, however, it may be used by states, at their discretion, to revise their current SIPs as they deem appropriate.

The EPA encourages all interested parties to participate in this process by submitting relevant comments, data, information and recommendations for how best to calculate the VOC emission reductions achieved from the adoption and implementation of an AIM coating rule in a given nonattainment or maintenance area.

### **III. Statutory and Executive Order Reviews.**

Under Executive Order (EO) 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and is, therefore, not subject to review by the Office of Management and Budget (OMB).

#### **List of Subjects in 40 CFR Part 51**

Environmental protection, Air pollution control, Ozone, Volatile organic compounds.

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

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Dated:

Stephen L. Johnson,  
Administrator