



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2010-0394; EPA-R05-OAR-2012-0786; FRL-9786-2]

Approval and Promulgation of Air Quality Implementation Plans;

Illinois; Consumer Products and AIM Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the Illinois State Implementation Plan (SIP). This approval resolves the issues raised in the June 7, 2012, conditional approval of Illinois' rules. EPA is also approving volatile organic compound (VOC) content limits and associated provisions for additional consumer products categories into the state's SIP. Finally, EPA is approving language to clarify VOC limit applicability for architectural and industrial maintenance (AIM) coatings into the Illinois SIP.

DATES: This direct final rule will be effective [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless EPA receives adverse comments by [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Nos.

EPA-R05-OAR-2010-0394, EPA-R05-OAR-2012-0786, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: blakley.pamela@epa.gov.
3. Fax: (312) 692-2450.
4. Mail: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 AM to 4:30 PM, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No.

EPA-R05-OAR-2010-0394. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, 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 www.regulations.gov or e-mail. The www.regulations.gov website is 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 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 docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials

are available either electronically in 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 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Anthony Maietta, Environmental Protection Specialist, at (312) 353-8777 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8777, maietta.anthony@epa.gov.

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

- I. Background.
- II. Contents of Illinois' Submittal.
- III. What Action is EPA Taking?
- IV. Statutory and Executive Order Reviews.

I. Background.

Consumer products encompass a wide array of sprays, gels, cleaners, adhesives, and other chemically formulated products that are purchased for personal or institutional use and that

emit VOCs through their use, consumption, storage, disposal, destruction, or decomposition. AIM coatings are generally paints, varnishes, and other similar materials that are meant for use on external surfaces of buildings, pavements and other outside structures. On April 7, 2010, the Illinois Environmental Protection Agency (IEPA) submitted a request for EPA to approve Part 223 of Title 35 of the Illinois Administrative Code (35 IAC Part 223), titled, "Standards and limitations for Organic Material Emissions for Area Sources", into the Illinois SIP. On June 7, 2012, EPA published a final action approving Illinois' consumer products and AIM rules into the State's SIP (77 FR 33659). In our June 7, 2012, rulemaking, we conditionally approved portions of IEPA's submittal, based upon the State's September 2, 2011, letter to EPA committing to correct the noted deficiencies by July 9, 2013. On September 14, 2012, IEPA submitted a revision to 35 IAC Part 223 correcting the paragraphs that EPA conditionally approved in our June 7, 2012, action.

Illinois' September 14, 2012, submittal requested that EPA approve VOC limits for additional categories of consumer products, as well as a compliance deadline and impurities provisions for these product categories. Illinois' submittal also requested EPA to approve a revision to 35 IAC Part 223 to clarify applicability of the AIM VOC limits.

II. Contents of Illinois' Submittal.

As noted above, on June 7, 2012, EPA conditionally approved four paragraphs of 35 IAC Part 223, noting deficiencies in the state rules. The four specific provisions containing these deficiencies were 35 IAC 223.205(6)(A), 35 IAC 223.205(6)(B), 35 IAC 223.205(17)(A), and 35 IAC 223.205(17)(B). These paragraphs displayed incorrectly labeled high-volatility and medium-volatility organic material limits. Based on our review of the September 14, 2012, submittal, IEPA has corrected the deficiencies within the prescribed time frame. We are converting the conditional approval to full approval.

IEPA also requested that EPA approve, into the Illinois SIP, adjustments to 35 IAC Part 223, as discussed below.

35 IAC Part 223, "STANDARDS AND LIMITATIONS FOR ORGANIC MATERIAL EMISSIONS FOR AREA SOURCES"

Subpart B: Consumer and Consumer Products

IEPA added section 223.211 "Requirements for Adhesive Removers, Aerosol Adhesives, Contact Adhesives, Electrical Cleaners, Electronic Cleaners, Footwear or leather Care Products, General Purpose Degreasers, and Graffiti Removers" to the table of contents of Subpart B. The addition is approvable into the Illinois SIP.

35 IAC Part 223.201, "Applicability"

IEPA added the phrase "unless another date is specified" to the applicability of 35 IAC Part 223 because the new product categories added to this rule were added after the rule's original applicability date. The new applicability date for the additional product categories (July 1, 2012) is specified in section 223.305 of the rule. This addition is approvable into the Illinois SIP.

35 IAC Part 223.203, "Definitions for Subpart B"

IEPA amended the definition of "Existing Product" to remove the specific applicability date of July 1, 2009, and added the phrase "the effective date in Section 223.205" in its place. This is an approvable amendment because both the July 1, 2009 (for product categories that were affected by the rule as approved by EPA at 77 FR 33659), and July 1, 2012 (for product categories affected by IEPA's latest amendments to the rule), effective dates are clearly stated in section 223.205 of Illinois' rule.

IEPA added the definition of "Vinyl/Fabric/Leather/Polycarbonate Coating" to this section. The definition is consistent with the Ozone Transport Commission (OTC) model rule, and therefore, is approvable into the Illinois SIP.

Section 223.205, "Standards"

IEPA requested EPA to approve the addition of new product categories, VOC limits for the products in these categories, and their associated applicability date at 35 IAC Part 223.205. IEPA amended the numeric order of the standards list in order to incorporate the new product categories. Specifically, the new product categories added to 35 IAC Part 223.205 (with subcategories listed in parenthesis) are:

- Adhesive Removers (floor or wall covering, gasket or thread locking, general purpose, and specialty),
- Anti-static Product, Non-Aerosol
- Contact Adhesives (general purpose and special purpose),
- Electrical Cleaner,
- Electronic Cleaner,
- Fabric Refresher (aerosol and non-aerosol),
- Footwear or Leather Care Products (aerosol, solid, and other forms),
- Graffiti Remover (aerosol and non-aerosol),
- Hair Styling Products (aerosol and pump sprays, and all other forms),
- Shaving Gel, and
- Wood Cleaner (aerosol and non-aerosol).

The VOC limits for these additional consumer products categories are at least as stringent as the VOC limits contained

in EPA's national consumer products rule ("National Volatile Organic Compound Emission Limits for Consumer Products," 40 CFR 59, subpart C), and mirror the VOC limits contained in the model consumer products rule created by the OTC. Therefore, these additions are approvable into the Illinois SIP. It should be noted that while Illinois is not an OTC member state, they have voluntarily chosen to adopt these VOC limits to create more consistency in regional and national markets for consumer products.

Section 223.211, "Requirements for Adhesive Removers, Aerosol Adhesives, Contact Adhesives, Electrical Cleaners, Electronic Cleaners, Footwear or Leather Care Products, General Purpose Degreasers, and Graffiti Removers".

This new section in Illinois' rule prohibits the sale of the aforementioned products after July 1, 2012, if they contain methylene chloride, perchloroethylene, or trichloroethylene. This section also allows for the sale of the aforementioned products that may contain methylene chloride, perchloroethylene, or trichloroethylene, but only if the compounds are present as impurities in a combined amount equal to or less than 0.01 percent by weight. This section mirrors the OTC model rule, and is therefore approvable into the Illinois SIP.

Subpart C: Architectural and Industrial Maintenance Coatings

Section 223.305, "Applicability"

IEPA amended paragraph (c) of this section to clarify that the volume of architectural coating in a container shall be considered the total volume of coating that is packaged as a unit for retail sale or for use by the consumer. This revision helps ensure that sellers of AIM coatings in Illinois comply with the VOC content limits contained in 35 IAC Part 223. Because this amendment makes clear that a seller cannot simply sell multiple small containers of an AIM coating (where each container contains a volume less than the amount that would trigger compliance with an AIM VOC limit), it strengthens compliance with the rule, and is approvable into the Illinois SIP.

III. What Action is EPA Taking?

EPA is approving a revision to the Illinois SIP, converting the June 7, 2012, conditional approved to full approval. EPA is also approving the requested amendments and additions to the Illinois SIP at 35 IAC Part 223 contained in Illinois' September 14, 2012, submittal. We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective [INSERT DATE 60 DAYS FROM THE DATE OF

PUBLICATION IN THE FEDERAL REGISTER] without further notice unless we receive relevant adverse written comments by [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

IV. Statutory and Executive Order Reviews.

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act 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 Clean Air Act. 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 Clean Air Act; 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 Clean Air Act, 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Reporting
and recordkeeping requirements, Volatile organic compounds.

Dated: February 13, 2013

Susan Hedman,
Regional Administrator, Region 5.

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.*

§ 52.719 [Removed and reserved]

2. Remove and reserve § 52.719.

3. Section 52.720 is amended by revising paragraph (c) (191) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(191) On September 14, 2012, Illinois submitted an amendment to its State Implementation Plan at 35 Illinois Administrative Code Part 223, which adds new consumer product categories and VOC limits for these products in Subpart B, and amends Subpart C to clarify applicability. 35 IAC Part 223 limits the amount of volatile organic compounds from consumer products and architectural and industrial maintenance coatings.

(i) Incorporation by reference.

(A) Illinois Administrative Code; Title 35: Environmental Protection; Subtitle B: Air Pollution; Chapter I: Pollution Control Board; Subchapter c: Emission Standards and Limitation for Stationary Sources; Part 223: Standards and Limitations for

Organic material Emissions for Area Sources, effective May 4,
2012.

(B)Reserved.

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05/06/2013]