

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[REG-107271-08]

RIN 1545-BH83

**Allocation and Reporting of Mortgage Insurance Premiums**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to prepaid qualified mortgage insurance premiums. The temporary regulations reflect changes to the law made by the Tax Relief and Health Care Act of 2006 and the Mortgage Forgiveness Debt Relief Act of 2007. The temporary regulations explain how to allocate prepaid qualified mortgage insurance premiums to determine the amount of the prepaid premium that is treated as qualified residence interest each taxable year under section 163(h)(4)(F) of the Internal Revenue Code (Code). The temporary regulations also provide guidance to reporting entities receiving premiums, including prepaid premiums, for mortgage insurance. The text of those temporary regulations also serves as the text of these proposed regulations.

**DATES:** Written or electronic comments and requests for a public hearing must be received by August 5, 2009.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-107271-08), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG-107271-08), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-107271-08).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Angella Warren (202) 622-4950; concerning submission of comments or a request for a public hearing, Funmi Taylor at (202) 622-7180 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:****Background and Explanation of Provisions**

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the regulations under 26 CFR Part 1 relating to sections 163(h) and 6050H(h). The temporary regulations add rules relating to the proper allocation of prepaid qualified mortgage insurance premiums and provide guidance to reporting entities receiving mortgage insurance premiums. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

**Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Comments and Requests for a Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and the Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing will be scheduled if requested in writing by any person that timely submits comments. If a public hearing is scheduled, notice of the date, time and place for the public hearing will be published in the **Federal Register**.

**Drafting Information**

The principal author of these regulations is Angella Warren, Office of the Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and the Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

**PART 1—INCOME TAXES**

**Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

**Par. 2.** Section 1.163-11 is added to read as follows:

**§ 1.163-11 Allocation of certain prepaid qualified mortgage insurance premiums.**

[The text of this section is the same as the text of § 1.163-11T(a) through (d) published elsewhere in this issue of the **Federal Register**].

**Par. 3.** Section 1.6050H-3 is added to read as follows:

**§ 1.6050H-3 Information reporting of mortgage insurance premiums.**

[The text of this section is the same as the text of § 1.6050H-3T(a) through (e) published elsewhere in this issue of the **Federal Register**].

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. E9-10664 Filed 5-6-09; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R05-OAR-2008-0812; FRL-8902-3]

**Approval and Promulgation of Implementation Plans; Ohio; Volatile Organic Compound Emission Control Measures for Cleveland**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** On March 23, 2009, the Ohio Environmental Protection Agency (Ohio EPA) submitted several volatile organic compound (VOC) rules for approval into the State Implementation Plan (SIP). The purpose of these rules is to satisfy the VOC reasonably available control technology (RACT) requirement for the Cleveland-Akron 8-hour ozone nonattainment area. These rules are approvable because they satisfy the control and enforceability requirements of RACT, including Ohio's requirement

to adopt VOC RACT rules for the Control Technique Guideline (CTG) documents issued by EPA in 2006 and 2007.

**DATES:** Comments must be received on or before June 8, 2009.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2008-0812, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *E-mail:* [mooney.john@epa.gov](mailto:mooney.john@epa.gov).

- *Fax:* (312) 692-2551.

- *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

- *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's 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 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R05-OAR-2008-0812. 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.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 <http://www.regulations.gov> or e-mail. The <http://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 <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. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the <http://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 <http://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 at (312) 886-6052 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:**

Steven Rosenthal, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. 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 Should I Consider as I Prepare My Comments for EPA?
- II. What Action is EPA Taking Today?
- III. What is the Purpose of this Action?
- IV. What is EPA's Analysis of Ohio's Submitted VOC Rules?
- V. Statutory and Executive Order Reviews

**I. What Should I Consider as I Prepare My Comments for EPA?**

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date, and page number).
2. Follow directions—The EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

**II. What Action Is EPA Taking Today?**

EPA is proposing to approve several revised and new VOC rules into the Ohio SIP. Several rule revisions expand applicability to include sources in the Cleveland-Akron 8-hour ozone nonattainment area, in particular for commercial bakery oven facilities, synthetic organic chemical manufacturing industry (SOCMI) reactors and distillation units, process vents in batch operations, wood furniture manufacturing operations, and industrial wastewater operations. Ohio adopted new rules for aerospace manufacturing and rework facilities, ship building and ship repair operations, plastic parts coating, and the storage of volatile organic liquids. In addition, Ohio adopted new rules and revisions to existing rules to address the CTGs issued by EPA in 2006 and 2007. These CTG categories are lithographic printing, industrial solvent cleaning, flat wood paneling, paper coating, metal furniture coating, large appliance coating, and flexible package printing. Ohio adopted several other minor revisions.

**III. What Is the Purpose of This Action?**

The primary purpose of these rules is to satisfy the requirement in section 182(b) of Part D of title I of the Clean Air Act (CAA) that VOC RACT rules be adopted for the Cleveland-Akron 8-hour ozone nonattainment area. These rules satisfy the requirement for VOC RACT rules for existing, pre-2006, CTG and major non-CTG source categories which were due on September 15, 2006, as well as the requirement to adopt VOC RACT rules for the CTG documents issued by EPA in 2006 and 2007.

On March 24, 2008 (73 FR 15416), EPA made a finding that Ohio failed to submit those VOC RACT rules which were due on September 15, 2006, for the Cleveland-Akron 8-hour ozone nonattainment area. Ohio submitted the fully adopted required VOC RACT rules to EPA on September 4, 2008. In a

November 19, 2008, letter to Ohio, EPA confirmed that Ohio's September 4, 2008, submittal satisfies the requirement for VOC RACT for existing, pre-2006, CTG and major non-CTG source categories which was due on September 15, 2006. Failure to submit a complete VOC RACT submittal would have triggered the offset sanction identified in CAA section 179(b)(2) on September 24, 2009, and the highway funding sanction in accordance with CAA section 179(b)(1) on March 24, 2010. EPA will be required by CAA section 110(c) to promulgate a Federal Implementation Plan (FIP) if it has not approved these VOC RACT rules into Ohio's SIP by March 24, 2010.

Finalization of the action proposed here would end any obligation for EPA to promulgate a FIP addressing this VOC RACT requirement.

After September 4, 2008, Ohio completed additional rulemaking on rules to address CTGs issued in September 2006 and September 2007. Ohio's submittal of March 23, 2009, incorporates the rule revisions submitted September 4, 2008, as well as the VOC rule revisions adopted thereafter.

#### IV. What Is EPA's Analysis of Ohio's Submitted VOC Rules?

##### (1) 3745-21-01—Definitions

Revisions to this section primarily consist of new definitions that are needed to support the new and revised rules. These definitions are consistent with EPA RACT guidance and are approvable.

##### (2) 3745-21-02—Ambient Air Quality Standards and Guidelines

This section is approvable because the carbon monoxide and 8-hour ozone standards are consistent with EPA standards.

##### (3) 3745-21-03—Methods of Ambient Air Quality Measurement

This section is approvable because the carbon monoxide and ozone measurement methods follow EPA procedures.

##### (4) 3745-21-04—Compliance Schedules and 3745-21-06—Classification of Regions

Section 3745-21-04 requires that compliance be achieved by April 2, 2010, for the new paper coating, metal furniture coating, large appliance coating, cold cleaning, and packaging rotogravure control requirements in 3745-21-09. This allows sources to achieve compliance within one year after the effective date of these new requirements, which is consistent with

EPA RACT policy and is therefore approvable.

##### (5) 3745-21-08—Control of Carbon Monoxide Emissions From Stationary Sources

The requirement that the waste gas stream from a catalyst regeneration process associated with a petroleum cracking system be burned at 1300 degrees Fahrenheit was deleted because a conflicting, but more appropriate, control requirement is in effect for these units in the New Source Performance Standards and the National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries. This section is therefore approvable.

##### (6) 3745-21-09—Control of VOCs From Stationary Sources

(A) *Applicability*—The applicability provisions in this paragraph are consistent with EPA guidance and are therefore approvable. Section (A)(6), which applies to paragraph (HH) for plastic parts coating (a non-CTG source category until September 2008), correctly specifies the way to establish applicability for major non-CTG sources. Major non-CTG applicability is determined by adding the potential VOC emissions from all non-CTG sources at a facility to the unregulated VOC emissions at a facility. For moderate ozone nonattainment areas, such as the Cleveland-Akron 8-hour ozone nonattainment area that is the subject of this state rule, the non-CTG sources at such a facility are subject to RACT if the combined unregulated CTG and non-CTG potential VOC emissions equal or exceed 100 tons per year.

##### (F) Paper Coating

(F)(2)—This section adds additional control requirements to paper coating lines in the Cleveland-Akron 8-hour ozone nonattainment area.

(F)(2)(a) requires that any paper coating line with potential emissions equal to or greater than 25.0 tons per year of VOC before the application of capture and control devices shall either: (i) Employ a control system in order to reduce total VOC emissions from the paper coating line by at least 90 percent or maintain an outlet concentration of 20 parts per million by volume (ppmv) or (ii) employ low VOC coatings.

(F)(2)(b) contains work practice standards for cleaning materials.

These revisions to paragraph (F) are consistent with those contained in the 2007 CTG for Paper, Film, and Foil Coating and are therefore approvable.

##### (I) Metal Furniture Coating

(I)(4)—This section adds additional control requirements for metal furniture coating lines in the Cleveland-Akron 8-hour ozone nonattainment area.

(I)(4)(a)—This section specifies VOC coating limits for both air-dried and baked metal furniture coating lines, including limits that are expressed in terms of pounds of VOC per gallon of coating solids. These limits allow the use of low VOC coatings or a combination of coatings and add-on control equipment to meet the mass of VOC per volume of coating solids limits. Section 3745-21-9(B)(7) also allows compliance to be achieved with a control system that achieves an overall reduction of 90 percent from the coating line and in which the control device has an efficiency of not less than 90 percent.

(I)(4)(b)—This section exempts the metal furniture coating lines at a facility if the combined emissions from all lines are less than 15 pounds per day of VOC. It also exempts stencil coatings, safety indicating coatings, solid film lubricants, touch-up and repair coatings, and coating application utilizing hand-held aerosol cans.

(I)(4)(c)—This section requires the use of coating application methods with good transfer efficiency such as electrostatic application, flow coating, dip coating, and high volume, low pressure (HVLP) application equipment.

(I)(4)(d) and (e)—These sections specify work practice standards for coating-related activities and cleaning materials.

The metal furniture control requirements in paragraph (I) are consistent with those contained in the 2007 CTG for Metal Furniture Coating and are therefore approvable.

##### (K) Large Appliance Coating

(K)(6)—This section adds additional control requirements to large appliance coating lines in the Cleveland-Akron 8-hour ozone nonattainment area.

(K)(6)(a)—This section specifies VOC coating limits for both air-dried and baked large appliance coating lines. It also contains VOC content limits for both air-dried and baked coatings that have the units of pounds of VOC per gallon of coating solids. These units allow the use of low-VOC coatings or a combination of coatings and add-on control equipment to meet the mass of VOC per volume of coating solids limits. Section 3745-21-9(B)(7) also allows compliance to be achieved with a control system that achieves an overall reduction of 90 percent from the coating line and in which the control device has an efficiency of not less than 90 percent.

(K)(6)(b)—This section exempts the metal furniture coating lines at a facility if the combined emissions from all lines are less than 15 pounds per day of VOC. Paragraph (K)(6)(b) also exempts stencil coatings, safety indicating coatings, solid film lubricants, touch-up and repair coatings, and coating application utilizing hand-held aerosol cans.

(K)(6)(c)—This section requires the use of coating application methods with good transfer efficiency such as electrostatic application, flow coating, dip coating, and HVLP application equipment.

(K)(6)(d) and (e)—These sections specify work practice standards for coating-related activities and cleaning materials.

These control requirements in 3745–21–9(K) are consistent with those contained in the 2007 CTG for Large Appliance Coating and are therefore approvable.

#### (O) Solvent Metal Cleaning

(O)(2)(e)—This section requires that cold cleaners in the Cleveland-Akron 8-hour ozone nonattainment area use solvent material with a vapor pressure that does not exceed 1.0 mm mercury (Hg). This requirement reduces the volatility and, therefore, the VOC emissions from cold cleaners in the Cleveland-Akron 8-hour ozone nonattainment area and is therefore approvable.

#### (O)(6) Exemptions

(O)(6)(c)—This section allows cleaners exceeding 1.0 mm Hg to be used to clean cured resin from application equipment at facilities subject to and complying with the requirements of the Reinforced Plastic Composites Production maximum achievable control technology (MACT) (40 CFR part 63, Subpart WWWW). This exemption is approvable because the difficulty of using such low vapor pressure cleaners has been documented and the increase in emissions would be minimal.

(O)(6)(d)—This section allows cleaners exceeding 1.0 mm Hg to be used to clean medical parts subject to regulation by the Food and Drug Administration and also to clean metal parts subject to Federal Aviation Administration and Department of Defense cleaning solvent specifications. However, this exemption is only allowed if the source adequately documents that there is a conflict between these specifications and the 1.0 mm Hg vapor pressure requirement in (O)(2)(e)(i). This exemption is therefore approvable.

(U)(2)(f)—This section allows Ohio to grant less stringent miscellaneous metal coating limits if the limits in (U)(1) are technically or economically infeasible. EPA has objected to previous versions of this paragraph because previous versions allowed less stringent limits to take effect without formal EPA SIP review. This version of paragraph (U)(2)(f) is approvable because it provides that alternate limits take effect only if EPA after suitable opportunity for review finds the alternate limit to represent RACT.

#### (Y)(4)—Flexible Package Printing

This section adds additional control requirements to packaging rotogravure and flexographic packaging printing lines in the Cleveland-Akron 8-hour ozone nonattainment area.

(Y)(4)(a)—Any packaging rotogravure or flexographic packaging printing line with potential emissions equal to or greater than 25 tons per year of VOC, before control, must comply with the add-on control system requirements in (i) or the low VOC requirements in (ii).

(Y)(4)(a)(i)—Overall control requirements for each subject press range from 65 percent to 80 percent, depending upon the installation date of the press and the first installation date of the add-on control device.

(Y)(4)(ii)—Coatings used in these printing lines must meet a limit of 0.8 pound of VOC per pound of solids applied or 0.16 pound of VOC per pound of coating applied.

(Y)(4)(b)—This section specifies work practice standards for cleaning materials that are applicable to all packaging rotogravure or flexographic packaging printing lines in the Cleveland-Akron 8-hour ozone nonattainment area.

The control requirements in (Y)(4) are consistent with those contained in the 2006 CTG for Flexible Package Printing and are therefore approvable.

#### (HH)—Surface Coating of Automotive/Transportation and Business Machine Plastic Parts

This section is approvable because the emission limits are consistent with EPA's RACT guidance in the Alternative Control Technology document for this source category. There is a specific VOC content limit for each type of coating, e.g., 4.1 pounds VOC per gallon for high bake colorcoat auto interiors. There is also an equivalent limit in terms of pounds VOC per gallon of solids if a control system is used to achieve compliance, e.g., 9.3 pounds VOC per gallon of solids for high bake colorcoat auto interiors.

#### (DDD) Gasoline Dispensing Facilities

(4)(e)—This section exempts any gasoline dispensing pump used solely for dispensing gasoline with an ethanol content of 85 percent from the gasoline dispensing station control requirements in (DDD)(1). This exemption is consistent with EPA policy and is therefore approvable.

(4)(f)—This section exempts any gasoline dispensing facility where gasoline is dispensed to a fleet of motor vehicles in which 95 percent or more of the fleet of motor vehicles being fueled with gasoline is equipped with onboard refueling vapor recovery. This exemption is consistent with EPA policy and is therefore approvable.

#### (7) 3745–21–10—Compliance Test Methods and Procedures

Ohio made no substantive changes to this section. The changes were grammatical and primarily revised the manner in which test methods were referenced. These revisions are approvable.

#### (8) 3745–21–12—Control of VOC Emissions From Commercial Bakery Oven Facilities

Ohio added a new section (A)(2) *Applicability for the Cleveland-Akron area* to this existing, and EPA approved, rule for the control of bakery oven emissions. This new section expands the applicability to include bakery oven facilities in the Cleveland-Akron moderate ozone nonattainment area. The revised rule satisfies the requirement for RACT for these sources and is therefore approvable.

#### (9) 3745–21–13—Control of VOC Emissions From Synthetic Organic Chemical Manufacturing Industry Reactors and Distillation Units

Ohio expanded the applicability of this EPA-approved rule to include the Cleveland-Akron 8-hour ozone nonattainment area, which is required by EPA RACT policy and is therefore approvable. Paragraph 3745–21–13(L) has been revised to require that newly subject sources in the Cleveland-Akron area are to notify Ohio EPA that they are subject. The sources are also required to describe their equipment as well as the means of achieving compliance.

#### (10) 3745–21–14—Control of VOC Emissions From Process Vents in Batch Operations

Ohio expanded the applicability of this EPA-approved rule to include the Cleveland-Akron 8-hour ozone nonattainment area, which is required by EPA RACT policy and is therefore approvable. Paragraph 3745–21–14(K)

has been revised to require that newly subject sources in the Cleveland-Akron area are to notify Ohio EPA that they are subject. They are also required to describe an equipment description, as well as to describe the means of achieving compliance.

*(11) 3745-21-15—Control of VOC Emissions From Wood Furniture Manufacturing Operations*

Ohio has expanded the applicability of this EPA-approved rule to include sources in the Cleveland-Akron 8-hour ozone nonattainment area. This applicability is required for moderate ozone nonattainment areas by EPA RACT policy and is approvable. Paragraph 3745-21-15(N) has been revised to require that newly subject sources in the Cleveland-Akron area are to notify Ohio EPA that they are subject. They are also required to provide an equipment description, as well as to describe the means of achieving compliance.

*(12) 3745-21-16—Control of VOC Emissions From Industrial Wastewater Operations*

Ohio has expanded the applicability of this EPA-approved rule to include the Cleveland-Akron 8-hour ozone nonattainment area, which is required by EPA RACT policy and is therefore approvable. Ohio has revised paragraph 3745-21-16(L) to require that newly subject sources in the Cleveland-Akron area are to notify Ohio EPA that they are subject. They are also required to provide an equipment description, as well as to describe the means of achieving compliance.

*(13) 3745-21-18—Commercial Motor Vehicle and Mobile Equipment Refinishing Operations*

Ohio has expanded the applicability of this EPA-approved rule to include the Cleveland-Akron 8-hour ozone nonattainment area. In addition, Ohio has added the VOC coating limits from EPA's Subpart B—National VOC Emission Standards for Automobile Refinish Coatings (40 CFR part 59). These revisions are approvable.

*(14) 3745-21-19—Control of VOC Emissions From Aerospace Manufacturing and Rework Facilities*

This new rule applies to aerospace manufacturing and rework facilities in the Cleveland-Akron 8-hour ozone nonattainment area. This rule is consistent with EPA's aerospace CTG and applies to such facilities with potential to emit of 25.0 tons per year for all operations combined where

aerospace components and vehicles are cleaned and coated.

Paragraph (D)(1) contains VOC content limits for primers, topcoats, chemical milling maskants, and specialty coatings.

Paragraph (D)(2) allows compliance to be achieved with an emission control system that achieves an overall reduction of 81 percent. If an emission control system includes a thermal or catalytic oxidizer, the control efficiency of the thermal or catalytic oxidizer must be at least 90 percent.

Paragraph (D)(4) specifies the allowable application equipment that can be used and excludes those methods, such as air spray, with low transfer efficiencies. Paragraph (E) specifies VOC requirements for cleaning operations. These include requirements for hand wipe cleaning operations, spray gun cleaning operations, flush cleaning operations, as well as housekeeping measures for cleaning solvents and solvent-laden cleaning materials used in cleaning operations. In addition, Ohio requires compliance either twelve months after the effective date of the rule (8/25/2009) or upon startup for a new facility. This rule also contains the appropriate monitoring requirements for a VOC emission control system, VOC test methods, as well as recordkeeping and reporting requirements. This rule is approvable because it is consistent with EPA's 1997 aerospace CTG.

*(15) 3745-21-20—Control of VOC Emissions From Shipbuilding and Ship Repair Operations*

This new rule applies to any shipbuilding or ship repair facility that is located in the Cleveland-Akron 8-hour ozone nonattainment area with potential VOC emissions of 25.0 tons per year or greater. The VOC control and related requirements are based upon EPA guidance, especially the Shipbuilding and Ship Repair CTG which is largely based, in turn, on the National Emission Standards for Hazardous Air Pollutants in Subpart II of 40 CFR part 63.

Paragraph 3745-21-19(D)(1) specifies the VOC content limits for a variety of marine coating categories, including a general use coating category and a number of specialty coating categories.

Paragraph 3745-21-19(D)(2) allows compliance to be achieved with an emission control system that achieves emission reductions equivalent to compliance with the coating limits.

In addition, Ohio requires compliance either twelve months after the effective date of the rule (8/25/2009) or upon startup for a new facility. This rule also

contains the appropriate monitoring requirements for a VOC emission control system, VOC test methods, as well as recordkeeping and reporting requirements.

This rule is approvable because it is consistent with EPA's 1996 Shipbuilding and Ship Repair CTG.

*(16) 3745-21-21—Storage of VOL Liquids in Fixed Roof Tanks and External Floating Roof Tanks*

This new rule applies to volatile organic liquid (VOL) storage tanks in the Cleveland-Akron 8-hour ozone nonattainment area if the facility at which the VOL storage tank is located has potential VOC emissions equal to or greater than 100 tons per year from all VOL storage tanks, non-CTG sources, and unregulated emissions from VOC sources. This rule includes control requirements for both fixed roof tanks with internal floating roofs and fixed roof tanks with closed vent systems and control devices. For internal floating roof tanks, the rule specifies three alternative seal systems. For fixed roof tanks with a closed vent system, the rule requires a 95 percent efficient control device or a flare. This rule also includes control requirements for external floating roof tanks, for which the rule requires a closure device consisting of a primary and secondary seal. The rule also includes both recordkeeping and reporting requirements. This rule is consistent with EPA's 1994 alternative control techniques document on VOL Storage in Floating and Fixed Roof Tanks and is therefore approvable.

*(17) 3745-21-22—Control of VOC Emissions From Offset Lithographic Printing and Letterpress Printing Facilities*

This new rule applies to offset lithographic and letterpress printing facilities in the Cleveland-Akron 8-hour ozone nonattainment area whose actual VOC emissions, before the application of control systems, are equal to or greater than three tons of VOCs per rolling twelve-month period. A heatset web offset lithographic printing press or a heatset web letterpress printing press with potential VOC ink oil emissions from the press dryer that are greater than 25 tons per year before control must maintain the dryer air pressure lower than the pressroom air pressure and operate a control system that achieves 90 percent control (or 95 percent control for a control system installed after the effective date of this rule) or maintain a maximum VOC outlet concentration of 20 ppmv. This rule restricts the VOC content of fountain solutions used by offset

lithographic presses, based on the type of offset lithographic press in use at a facility. Cleaning solutions used on subject lithographic or letterpress printing presses must either be at or below 70 percent by weight VOC or be at or below ten mm Hg at 20 degrees Celsius. This rule also contains the appropriate test methods for determining the VOC concentration of the exhaust stream and the VOC content of the fountain solution and cleaning solution. This rule includes methods to determine the vapor pressure of the cleaning solution. The rule also includes monitoring and recordkeeping requirements to ensure that the control systems are operating properly, to establish whether the VOC content of the cleaning solution and fountain solution are in compliance with the applicable limits, and to establish whether an offset lithographic or letterpress printing facility is subject to one or more of the control requirements of the rule. This rule is approvable because it is consistent with EPA's 2006 CTG for Offset Lithographic Printing and Letterpress Printing.

*(18) 3745-21-23—Control of VOC Emissions From Industrial Solvent Cleaning Operations*

This new rule applies to facilities with solvent cleaning operations in the Cleveland-Akron 8-hour ozone nonattainment area whose actual VOC emissions from all solvent cleaning operations is equal to or greater than 15 pounds VOC per day. Those source categories with VOC rules that contain their own solvent cleaning control requirements, e.g., aerospace coating and flexible package printing, are exempt from this rule.

This rule contains a general restriction on the VOC content of cleaning materials used of 0.42 pounds VOC per gallon. The rule also contains higher limits for specialty cleaning operations such as cleaning electronic components and medical devices. This rule specifies the use of certain cleaning methods, e.g., wipe cleaning, and prohibits others, e.g., atomizing any solvent unless the emissions are vented to VOC emission control equipment. As an alternative to the VOC content limitations in this rule, a facility may use solvents or solvent solutions which have a VOC composite partial vapor pressure of less than or equal to eight mm of Hg.

The rule includes several exemptions, e.g., graffiti removal and the stripping of cured coatings, for which solvent cleaning restrictions are not feasible. EPA Method 24 is specified for determining the VOC content of solvent

material and American Society of Testing Material (ASTM) D2879 is specified for determining the vapor pressure of each component. Recordkeeping requirements include the name and identification of each cleaning material used and the VOC content or the VOC composite vapor pressure of each cleaning material used.

This rule is approvable because it is consistent with EPA RACT guidance, particularly the 2006 CTG for Industrial Cleaning Solvents.

*(19) 3745-21-24—Flat Wood Paneling Coatings*

This new rule applies to facilities in the Cleveland-Akron 8-hour ozone nonattainment area whose actual VOC emissions from all flat wood paneling coating lines is equal to or greater than 15 pounds VOC per day. This rule limits subject facilities to a VOC content limitation of 2.1 pounds of VOC per gallon of coating or, if an add-on control device is used, a minimum overall control efficiency of 90 percent by weight.

This rule specifies the type of application equipment that can be used in order to eliminate the use of application equipment with low transfer efficiency. In addition, the rule sets work practice standards that minimize VOC emissions from all coatings, thinners, and cleaning materials. These work practice standards require the storage and transfer of all such materials in closed containers or pipes in order to minimize emissions.

This rule is approvable because it is consistent with EPA RACT guidance, particularly the 2006 CTG for Flat Wood Paneling Coatings.

**V. 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 (Pub. L. 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.

**List of Subjects in 40 CFR Part 52**

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

Dated: April 27, 2009.

**Walter W. Kovalick Jr.**,

*Acting Regional Administrator, Region 5.*

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