

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not

require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a safety zone and as such is not categorically excluded, under figure 2–1, paragraph (34)(g) of the Instruction. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under

#### ADDRESSES.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat.2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 165.T08–0032 to read as follows:

#### § 165.T08–0032 Safety Zone; Lake Pontchartrain, New Orleans, LA.

(a) *Location.* The following area is a temporary safety zone: All waters on the South shores of Lake Pontchartrain adjacent to the East bank of Lakefront Airport runways, extending along the Southern banks of the Lake, and including the Inner Harbor Navigational Canal entrance to Lake Pontchartrain.

The coordinates are: Latitude 30° 02′ 38.37″ N, longitude 90° 01′ 53.56″ W to latitude 30° 02′ 38.37″ N, longitude 90° 04′ 10.05″ W to latitude 30° 02′ 07.71″ N, longitude 90° 04′ 10.05″ W to latitude 30° 02′ 07.71″ N, longitude 90° 01′ 53.56″ W.

(b) *Effective Dates.* This rule is effective April 19, 2012 through April 22, 2012 daily between the hours of 10 a.m. and 5 p.m. local time.

(c) *Regulations.* (1) In accordance with the general regulations in 33 CFR part 165 Subpart C of this title, entry into this zone is prohibited unless authorized by the Captain of the Port New Orleans. The Captain of the Port New Orleans may be contacted at (504) 365–2543.

(2) Vessels requiring entry into or passage through the Safety Zone must request permission from the Captain of the Port New Orleans, or a designated representative. They may be contacted on VHF 16, or by telephone at (504) 365–2543.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port New Orleans and designated personnel. Designated personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans.

Dated: April 4, 2012.

**J.J. Arenstam,**  
Captain, U.S. Coast Guard, Acting Captain of the Port New Orleans.

[FR Doc. 2012–9050 Filed 4–13–12; 8:45 am]

**BILLING CODE 9110–04–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R05–OAR–2012–0073; FRL–9651–5]

#### Approval and Promulgation of Air Quality Implementation Plans; Illinois; Small Container Exemption From VOC Coating Rules

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a revision to the Illinois State Implementation plan (SIP) submitted by the Illinois Environmental Protection Agency (Illinois EPA) on November 14, 2011. This SIP revision consists of amendments to the Illinois Administrative Code (Ill. Adm. Code) by adding a “small container exemption” for pleasure craft surface coating operations in the Chicago and Metro-East St. Louis 8-hour ozone nonattainment areas. These exemptions are approvable because they are consistent with EPA volatile organic compound (VOC) reasonably available control technology (RACT) policy.

**DATES:** This direct final rule will be effective June 15, 2012, unless EPA receives adverse comments by May 16, 2012. 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 No. EPA-R05-OAR-2012-0073, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *Email*: [aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov).

3. *Fax*: (312) 408-2279.

4. *Mail*: Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery*: Douglas Aburano, Chief, Attainment Planning and Maintenance 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 a.m. to 4:30 p.m., excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R05-OAR-2012-0073. 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 email. The *www.regulations.gov* Web site 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 email comment directly to EPA without going through *www.regulations.gov*, your email 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 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Steven Rosenthal, Environmental Engineer, at (312) 886-6052 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:**

Steven Rosenthal, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6052, [rosenthal.steven@epa.gov](mailto:rosenthal.steven@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. What action is EPA taking and what is the basis for this action?

III. Statutory and Executive Order Reviews

**I. Background**

On November 14, 2011, Illinois EPA submitted a revision to its ozone SIP. This revision consists of an amendment to 35 Ill. Adm. Code sections 218.208 (Exemptions from VOC Emission Limitations for Coating Operations for the Chicago 8-hour ozone nonattainment area) and 219.208 (Exemptions from VOC Emission Limitations for Coating Operations for the Metro-East St. Louis 8-hour ozone nonattainment area) by adding a “small container exemption” for pleasure craft surface coating operations. EPA previously approved sections 218.208(c) and 219.208(c) which specify that Illinois’ surface coating VOC emission limitations shall not apply to touch-up and repair coatings used by a can, coil, vinyl, metal furniture and magnet wire coating operation, provided that the source-wide volume of such coatings used does not exceed 1 quart per 8-hour period or exceed 55 gallons/year for any rolling 12 month period. (61 FR 5511 on February 13, 1996). The SIP revision which is the subject of this action extends the exemption in sections 218.208(c) and 219.208(c) to the pleasure craft surface coating limits set out in sections 218.204(q)(5) and 219.204(q)(5). Illinois’ SIP revision also amends 35 Ill. Adm. Code 218.208(e) and 219.208(e), the recordkeeping and reporting provisions, to add pleasure craft coating operations that are exempted from the limitations in 218.204(q) and 219.204(q) to the coating operations subject to recordkeeping requirements. Sections 218.208(e) and 219.208(e) contain sufficient recordkeeping requirements to establish whether these exemptions have been exceeded.

**II. What action is EPA taking and what is the basis for this action?**

EPA is approving the State’s request to add a “small container exemption” for pleasure craft surface coating operations in the Chicago and Metro-East St. Louis 8-hour ozone nonattainment areas for the reasons stated below.

EPA published the Miscellaneous Metal and Plastic Part Coatings Control Technique Guidelines (MMPPC CTG) on October 7, 2008 (73 FR 58486). Members of the pleasure craft coatings industry contacted EPA requesting reconsideration of the pleasure craft VOC limits contained in EPA’s 2008 MMPPC CTG. In response, EPA issued a memorandum on June 1, 2010, titled “Control Technique Guidelines for Miscellaneous Metal and Plastic Part Coatings—Industry Request for

Reconsideration,” recommending that the pleasure craft industry work with State agencies during their RACT rule development process to assess what is reasonable for the specific sources regulated. EPA stated that States can use the recommendations from the MMPPC CTG to inform their own determinations as to what constitutes RACT for pleasure craft coating operations in their particular ozone nonattainment area. As stated in the memorandum, EPA will evaluate State-developed RACT rules and determine whether the submitted rules meet the RACT requirements of the Clean Air Act (CAA).

In 2010 and 2011 Illinois promulgated rules on VOC RACT emission limitations for coating operations (See November 30, 2011 proposed approval at 76 FR 74014). During that rulemaking the American Coatings Association (ACA) commented to Illinois EPA that many VOC coating regulations include a small container exemption not to exceed a liter or a quart. The ACA stated that the basis for these exemptions is to allow for small repairs and touch ups to existing coatings at the end of the painting line to avoid having to completely recoat the product, thus resulting in lower VOC emissions overall and supported a small container exemption for pleasure craft coating operations.

As a result of this comment and EPA's June 2010 memorandum discussing the CTG and the pleasure craft industry, Illinois EPA amended its small container exemptions to add the pleasure craft coating operations. These exemptions limit the quantity of touch-up and repair coatings used to a maximum quantity of 55 gallons per year of such coatings.

Illinois' approach is generally consistent with EPA's August 10, 1990, policy memorandum regarding an allowed "Exemption for Low-Use Coatings" which states that "[a] low-use exemption for specialty or other coatings may be reasonable for a source that uses small quantities for intermittent or specialty-type operations." In this policy EPA stated that a plant-wide cutoff of 55 gallons per rolling 12-month period for all low-use coatings in the aggregate used at a facility is reasonable. Also, EPA has previously approved the small container exemption for Illinois' can, coil, vinyl, metal furniture and magnet wire coating operations.

EPA concludes that Illinois' small container exemption for pleasure craft coating operations added to 35 Ill. Adm. Code sections 218.208 and 219.208 satisfies RACT requirements of the CAA. As noted above, the exemption is

for a source category identified by EPA as appropriate for state consideration and development of what is reasonable for the specific source category, the exemption may result in lower emissions because allowing higher VOC touch-up and repair coatings could result in less total coating use (and lower overall VOC emissions) and the exemption is restricted to no more than 55 gallons per year of these coatings, which is consistent with EPA's policy on exemptions for low-use coatings.

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 June 15, 2012 without further notice unless we receive relevant adverse written comments by May 16, 2012. 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 June 15, 2012.

### III. 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.

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 CAA, petitions for judicial review of this

action must be filed in the United States Court of Appeals for the appropriate circuit by June 15, 2012. 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, Volatile organic compounds.

Dated: March 12, 2012.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

40 CFR part 52 is amended as follows:

#### PART 52—[AMENDED]

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

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

#### Subpart O—Illinois

■ 2. § 52.720 is amended by adding paragraph (c)(190) to read as follows:

##### § 52.720 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(190) On November 14, 2011, the Illinois Environmental Protection Agency (Illinois EPA) submitted amendments to 35 Illinois Administrative Code 218.208 and 219.208. These sections add a “small container exemption” for pleasure craft surface coating operations in the Chicago and Metro-East St. Louis 8-hour ozone nonattainment areas. These exemptions are consistent with EPA volatile organic compound (VOC) reasonably available control technology (RACT) policy.

(i) *Incorporation by reference.* The following sections of Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter 1: Pollution

Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, are incorporated by reference.

(A) Part 218: Organic Material Emission Standards and Limitations for the Chicago Area, Subpart F: Coating Operations, Section 218.208 Exemptions From Emission Limitations; effective October 25, 2011.

(B) Part 219: Organic Material Emission Standards and Limitations for the Metro East Area, Subpart F: Coating Operations, Section 219.208 Exemptions From Emission Limitations; effective October 25, 2011.

[FR Doc. 2012–8952 Filed 4–13–12; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R07–OAR–2011–0825; FRL–9657–8]

#### Approval and Promulgation of State Implementation Plans; Missouri: Prevention of Significant Deterioration; Greenhouse Gas Tailoring Rule; New Source Review Reform

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving revisions to the Missouri State Implementation Plan (SIP) relating to regulation of Greenhouse Gases (GHGs) under Missouri's Prevention of Significant Deterioration (PSD) program, and to other portions of Missouri's New Source Review (NSR) program. The GHG-related SIP revisions are designed to align Missouri's regulations with the GHG emission thresholds established in EPA's “PSD and Title V Greenhouse Gas Tailoring Final Rule,” which EPA issued by notice dated June 3, 2010. The other NSR revisions are to the Construction Permits Required Rule and the Emissions Banking and Trading Rule and are intended to address changes to the Federal NSR regulations, which were promulgated by EPA on December 31, 2002 (the NSR Reform rules). In today's action, EPA is approving both the GHG (as it relates to the PSD program) and NSR revisions because the Agency has determined that these SIP revisions, already adopted by Missouri as final effective rules, are in accordance with the Clean Air Act (CAA or Act) and EPA regulations regarding PSD permitting for GHGs and NSR.

**DATES:** This final rule is effective on May 16, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R07–OAR–2011–0825. All documents in the docket are listed on the <http://www.regulations.gov> web site. 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 at <http://www.regulations.gov> or in hard copy at the Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For information regarding the GHG portion of the Missouri SIP, contact Mr. Larry Gonzalez, Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101. Mr. Gonzalez's telephone number is (913) 551–7041, and his email address is [gonzalez.larry@epa.gov](mailto:gonzalez.larry@epa.gov). For information regarding the NSR Reform portion of the Missouri SIP, contact Ms. Amy Bhesania, Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101. Ms. Bhesania's telephone number is (913) 551–7147, and her email address is [bhesania.amy@epa.gov](mailto:bhesania.amy@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document “we,” “us,” or “our” refer to EPA.

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