B. Format of Public Hearings

The Office will establish time limits for each panel after receiving all requests to testify. Generally, the Office plans to allot approximately one to two hours for each proposed class, although it may adjust the timing depending upon the complexity of the class. In addition, members of the public will be provided a limited opportunity to offer additional comments for the record, but parties who wish to provide detailed information to the Office are encouraged to submit a request to testify.

Witnesses should expect the Office to have carefully studied all written comments, and the Office will expect witnesses to have done the same with respect to the classes for which they will be presenting. The hearings will focus on legal or factual issues that are unclear or underdeveloped in the written record, as identified by the Office, as well as demonstrative evidence.

The Office stresses that factual information is critical to the rulemaking process, and witnesses should be prepared to discuss, among other things, where the copies of the works sought to be accessed are stored, how the works would be accessed, and what would be done with the works after being accessed. The Office also encourages witnesses to provide real-world examples to support their arguments. In some cases, the best way to do this may be to provide a description or demonstration of a claimed noninfringing use or the technologies pertinent to a proposal. As noted above, a person wishing to provide a demonstration should include a request to do so with the request to testify, using the appropriate space on the form. Persons should consider whether a demonstration is able to be presented in a format that enables it to be viewed by participants and observers via Zoom. To ensure proper documentation of the hearings, the Office will require that a copy of any audio, visual, or audiovisual materials (e.g., slideshows and videos) be provided to the Office following the hearing. The Office may contact witnesses individually ahead of time to ensure that demonstrations can be preserved for the record in an appropriate form.

C. Ex Parte Communication

During the seventh triennial rulemaking, the Office issued guidelines according to which interested parties could request informal meetings with the Office. The Office intends to issue similar guidelines in this proceeding. Consistent with its prior practice, the Office will establish requirements to ensure transparency, including that participating parties submit a list of attendees and a written summary of any oral communications, which will be posted on the Office’s website. The ex parte guidelines will be made available at https://www.copyright.gov/1201/2021/ following the completion of the public hearings. No ex parte meetings in this proceeding will be scheduled before that time.

As in prior proceedings, such informal communications may supplement, but not substitute for, the written record and testimony at the public hearings. The primary means to communicate views in the course of the rulemaking will continue to be through the submission of written comments and testimony at the public hearings.


Regan A. Smith,
General Counsel and Associate Register of Copyrights.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FR Doc. 2021–02464 Filed 2–5–21; 8:45 am]

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FOR FURTHER INFORMATION CONTACT: Mike Gordon, Planning & Implementation Branch (3AD30) Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2039. Mr. Gordon can also be reached via electronic mail at gordon.mike@epa.gov.

I. Background

A. General

Ozone is formed in the atmosphere by photochemical reactions between VOCs and nitrogen oxides (NOx) in the presence of sunlight. In order to reduce these ozone concentrations, the CAA requires control of VOC and NOx emission sources to achieve emission reductions in moderate or more serious ozone nonattainment areas. Section 184(a) of the CAA established a single ozone transport region (OTR), comprising all or part of 12 eastern states, including all of the State of Delaware. Section 176a of the CAA requires that when a transport region is established, the Administrator must also establish a transport commission...
consisting of certain representatives from each state included within the transport region. See CAA section 176a(b)(1). Following creation of the OTR, an Ozone Transport Commission (OTC) was established in accordance with the requirements of CAA section 176a(b)(1). In December 1999, EPA identified emission reduction shortfalls in several severe 1-hour ozone nonattainment areas, including those located in the OTR. As a result, the OTC developed model rules for a number of source categories. One of the model rules, the 2002 MERR Model Rule, was developed to reduce VOC emissions from automotive coatings and cleaning solvents associated with non-assembly line refinishing or recoating of motor vehicles, mobile equipment, and their associated parts and components. The OTC 2002 MERR Model Rule applies to a person who applies mobile equipment repair and refinishing or color matched coatings to mobile equipment or mobile equipment components. Delaware’s regulations adopting the OTC 2002 MERR model rule were originally approved by EPA into Delaware’s SIP on November 22, 2002 (67 FR 70315) as part of a regional effort to attain and maintain the 1-hour ozone NAAQS. The OTC 2009 MVMERR Model Rule is a revision of the 2002 MERR Model Rule developed by the OTC. The OTC’s 2009 MVMERR Model Rule is based upon the California Air Resources Board’s (CARB) Suggested Control Measure (SCM) for Automotive Coatings, published October 2005. In order to keep Delaware’s regulations up-to-date with the OTC’s 2009 MVMERR Model Rule, Delaware revised its regulations, found at 7 DE Admin Code 1124, Control of Volatile Organic Compound Emissions; Section 11.0 Mobile Equipment Repair and Refinishing (Delaware’s 2010 amended MERR rule), on September 17, 2010. Delaware then submitted these 2010 amendments to EPA as a SIP revision on May 6, 2020.2


2 During a recent internal review of the Delaware SIP, DNREC discovered that it had never submitted the 2010 Delaware regulatory changes adopting the 2009 OTC MVMERR Model Rule to EPA as a SIP revision. DNREC therefore submitted this SIP revision in May 2020 so that the EPA-approved SIP would correctly reflect the Delaware regulations.

B. Source Description

Automobile refinishing includes the application of coatings following the manufacture of original equipment. “Automobile” or “vehicle” in this category refers to passenger cars, trucks, vans, motorcycles, and other mobile equipment capable of being driven on the highway. Automobile refinishing work typically consists of structural repair, surface preparation, and painting, and includes operations in auto body repair/paint shops, production auto body paint shops, new car dealer repair/paint shops, fleet operator repair/paint shops, and custom-made car fabrication facilities. The steps involved in automobile refinishing include surface preparation, coating applications, and spray equipment. VOC emissions result from the evaporation of solvents during each of these processes and can be controlled through the use of compliant coatings and solvents, the use of application equipment with increased transfer efficiency, and stringent work practice standards.

The main categories of coatings are primers and topcoats. The primer category consists of pretreatment wash primers, primers, primer surfacers, and primer sealer. Topcoats are applied over the primer coats and provide the final color to the refinished area. Primers and coatings can be classified as lacquer, enamel, or urethane coatings. Each coating differs in its chemistry, durability, and VOC content. Some additives and specialty coatings are necessary for unusual performance requirements and are used in relatively small amounts to improve desirable properties. Additives and special coatings include adhesion promoters, uniform refinish blenders, elastomeric materials for flexible plastic parts, gloss flatteners, and anti-glare/safety coatings. For additional information, see EPA’s “Alternative Control Techniques (ACT) Document: Automobile Body Refinishing” (EPA–453/R–94–031, April 1994).3

II. Summary of SIP Revision and EPA Analysis

On May 6, 2020, DNREC submitted a SIP revision consisting of amendments to its MERR rule to incorporate the OTC 2009 MVMERR Model Rule. If approved into the SIP, Delaware’s 2010 amended MERR rule would be federally enforceable. Affected sources within the State of Delaware include: Auto body and repair facilities; fleet operator repair and paint facilities; new and used auto dealer repair and paint facilities; after-market auto customizing and detailing facilities; manufacturers, suppliers, and distributors of coatings and cleaning solvents intended for use and application to motor vehicles, mobile equipment, and associated components; and manufacturers, suppliers, and distributors of application equipment and materials storage such as spray booths, spray guns, and sealed containers for cleaning rags for use within the State of Delaware.

As summarized in Delaware’s transmittal memo for this SIP revision, this SIP revision to Delaware’s existing regulation, 7 DE Admin Code 1124, reduces the VOC contents of currently regulated coatings, regulates additional coating categories, requires the use of coating application equipment that provides for high transfer efficiency, and requires that surface cleaning solvent contain no more than 25 grams of VOC per liter. More specifically, Delaware’s 2010 amended MERR rule establishes revised VOC content limits for automotive coatings and cleaning solvents used in the preparation, application, and drying phases of vehicle refinishing. Delaware’s 2010 amended MERR rule also establishes coating application standards, work practices, operator training standards, and compliance and recordkeeping standards. Table I lists the revised VOC limits adopted by the State of Delaware in 2010, and compares them to the standards set in the OTC 2009 MVMERR Model Rule.

And EPA is therefore proposing to incorporate by reference revisions to 7 DE Admin Code 1124 Control of Volatile Organic Compound Emissions Section 11.0 Mobile Equipment Repair and Refinishing. EPA has made, and will continue to make, these materials generally available through https://www.regulations.gov and at the EPA Region III Office (please contact the person identified in the FOR FURTHER INFORMATION CONTACT section of this preamble for more information).

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 51.22(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 proposed action:

• Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

• Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because it is not a “significant regulatory action” under Executive Order 12866.

• 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.

VII. Notice of Availability of Proposed Rule

EPA is proposing to incorporate by reference revisions to 7 DE Admin Code 1124 Control of Volatile Organic Compound Emissions Section 11.0 Mobile Equipment Repair and Refinishing. EPA has made, and will continue to make, these materials generally available through https://www.regulations.gov and at the EPA Region III Office (please contact the person identified in the FOR FURTHER INFORMATION CONTACT section of this preamble for more information).
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 proposed rulemaking, in which EPA is proposing approval of Delaware’s 2010 amended MERR rule to incorporate the 2009 OTC MVMERR Model 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, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.


Diana Esher,
Acting Regional Administrator, Region III.

FOR FURTHER INFORMATION CONTACT:
Mackintosh.David@epa.gov.

SUPPLEMENTARY INFORMATION:
Throughout this document whenever “we,” “us,” or “our” is used, mean EPA.

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II. EPA’s Evaluation of the Submittal
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I. Background and Purpose

On January 24, 2020, the Rhode Island Department of Environmental Management submitted to EPA a State Implementation Plan (SIP) revision containing three revised air pollution control regulations: 250–RICR–120–05–04, “General Definitions”; 250–RICR–120–05–31, “Control of Volatile Organic Compounds from Consumer Products”; and 250–RICR–120–05–33, “Control of Volatile Organic Compounds from Architectural Coatings and Industrial Maintenance Coatings.” These revised regulations became effective in Rhode Island on January 9, 2017. In each regulation Rhode Island has submitted to EPA for incorporation into the SIP, its subsection 2 “Application” has been stricken from the rule. Rhode Island notes that this language is only relevant in Rhode Island and not intended to be incorporated into the Rhode Island SIP.