

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2011-0998; FRL-9657-1]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Amendments to the Handling, Storage, and Disposal of Volatile Organic Compounds Emissions; Automobile and Light-Duty Truck Coating Operations; Paper Coating; Coating of Flat Wood Paneling; Graphic Art Systems; and Industrial Cleaning Solvents

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Delaware. This revision amends the control of volatile organic compound (VOC) emissions from industrial cleaning solvents facilities; automobile and light-duty truck coating operations; paper, film, and foil coating units; flat wood paneling products; and flexible packaging printing presses. EPA is approving this SIP revision to meet the requirements to implement reasonably available control technology (RACT) controls on emission sources covered by EPA's control techniques guidelines (CTG) in accordance with the requirements of the Clean Air Act (CAA).

DATES: *Effective Date:* This final rule is effective on May 14, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2011-0998. All documents in the docket are listed in the www.regulations.gov Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (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 through www.regulations.gov or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources and Environmental

Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Gregory Becoat, (215) 814-2036, or by email at becoat.gregory@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On February 2, 2012 (77 FR 5207), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. The NPR proposed approval of the Delaware SIP revision that amends section 8.0, "Handling, Storage, and Disposal of Volatile Organic Compounds," section 13.0, "Automobile and Light-Duty Truck Coating Operations," section 16.0, "Paper Coating," section 23.0, "Coating of Flat Wood Paneling," section 37.0, "Graphic Art Systems," and section 45.0, "Industrial Cleaning Solvents," to reflect technology developments and expand VOC emission controls. The revision is part of Delaware's strategy to achieve and maintain the 8-hour ozone national ambient air quality standard (NAAQS) throughout the State. EPA received no comments on the NPR to approve Delaware's SIP revision. The formal SIP revision was submitted by the State of Delaware on June 20, 2011.

II. Summary of SIP Revision

The SIP revision consists of the following: (1) Amendments to section 8.0—Handling, Storage, and Disposal of Volatile Organic Compounds, in order to add definitions, update the existing work practice standards, and add an applicable cleaning solvent VOC content limit; (2) amendments to section 13.0—Automobile and Light-Duty Truck Coating Operations, in order to establish VOC limits in coating materials used in automobile and light-duty truck coating operations; (3) amendments to section 16.0—Paper Coating, in order to expand the regulated scope and add "film and foil coating" to the regulated category; (4) amendments to section 23.0—Coating of Flat Wood Paneling, in order to add tileboard panels and exterior sidings to the flat wood paneling product category and establish VOC emission limits, as well as establish more stringent emission limits to previously existing flat wood paneling products; (5) amendments to section 37.0—Graphic Arts Systems, in order to establish provisions for flexible packaging printing presses to the regulated category and establish efficiency requirements for control systems to be installed on the flexible packaging printing presses; and (6) amendments to section 45.0—Industrial Cleaning Solvents, in order to update

the applicability for the industrial use of organic cleaning solvents and clarify that the requirements of section 45.0 are triggered based on a limit of VOC emissions rather than cleaning solvent used. Other specific requirements and the rationale for EPA's proposed action are explained in the NPR and will not be restated here.

III. Final Action

EPA is approving the control of VOC emissions from industrial cleaning solvents facilities; automobile and light-duty truck coating operations; paper, film, and foil coating units; flat wood paneling products; and flexible packaging printing presses (7 DE Admin Code 1124, sections 8.0, 13.0, 16.0, 23.0, 37.0, and 45.0) as a revision to the Delaware SIP. This SIP revision meets the requirements to implement RACT controls on emission sources.

IV. Statutory and Executive Order Reviews

A. General Requirements

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.

B. Submission to Congress and the Comptroller General

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).

C. Petitions for Judicial Review

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 12, 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.

This action approving Delaware’s control of VOCs from industrial cleaning solvents facilities; automobile and light-duty truck coating operations; paper, film, and foil coating units; flat

wood paneling products; and flexible packaging printing presses 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 27, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

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 I—Delaware

■ 2. In § 52.420, the table in paragraph (c) is amended by revising the entries for Regulation 1124, sections 8.0, 13.0, 16.0, 23.0, 37.0, and 45.0 to read as follows:

§ 52.420 Identification of plan.

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(c) * * *

EPA-APPROVED REGULATIONS IN THE DELAWARE SIP

State regulation (7 DNREC 1100)	Title/subject	State effective date	EPA approval date	Additional explanation
1124	Control of Volatile Organic Compound Emissions			
Section 8.0	Handling, Storage, and Disposal of Volatile Organic Compounds.	3/11/11	4/13/12 [Insert page number where the document begins].	
Section 13.0	Automobile and Light-Duty Truck Coating Operations.	3/11/11	4/13/12 [Insert page number where the document begins].	
Section 16.0	Paper Coating	3/11/11	4/13/12 [Insert page number where the document begins].	Amended to add “film and foil coating” to the regulated category.
Section 23.0	Coating of Flat Wood Paneling	3/11/11	4/13/12 [Insert page number where the document begins].	

EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State regulation (7 DNREC 1100)	Title/subject	State effective date	EPA approval date	Additional explanation
Section 37.0	Graphic Art Systems	3/11/11	4/13/12 [Insert page number where the document begins].	Amended to add “flexible packaging printing” to the regulated category.
Section 45.0	Industrial Cleaning Solvents	3/11/11	4/13/12 [Insert page number where the document begins].	

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[FR Doc. 2012–8854 Filed 4–12–12; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 260 and 261**

[EPA–HQ–RCRA–2008–0808; FRL 9658–3]

RIN–2050–AE78

Regulation of Oil-Bearing Hazardous Secondary Materials From the Petroleum Refining Industry Processed in a Gasification System To Produce Synthesis Gas; Final Determination To Deny Administrative Petition**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule; final determination to deny administrative petition.

SUMMARY: EPA is providing notice of a final determination to deny an administrative petition submitted by Earthjustice on behalf of the Sierra Club and the Louisiana Environmental Action Network under the Resource Conservation and Recovery Act. The petition requested EPA to review the final rule, “Regulation of Oil-Bearing Hazardous Secondary Materials From the Petroleum Refining Industry Processed in a Gasification System To Produce Synthesis Gas,” published in the **Federal Register** on January 2, 2008.

FOR FURTHER INFORMATION CONTACT: Alan Carpien, U.S. Environmental Protection Agency, Office of General Counsel, Mail Code 2366A, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone (202) 564–5507; or carpien.alan@epa.gov.

SUPPLEMENTARY INFORMATION:**I. General Information***A. How can I get copies of this document and other related information?*

1. *Docket.* EPA has established a docket for this action under Docket ID No. EPA–HQ–RCRA–2008–0808. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the RCRA Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the RCRA Docket is (202) 566–0270. A reasonable fee may be charged for copying docket materials.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

II. Summary of the Action

EPA is providing notice of a final determination to deny an administrative petition submitted by Earthjustice on behalf of the Sierra Club and the Louisiana Environmental Action Network under the Resource Conservation and Recovery Act. EPA issued an earlier notice tentatively denying this same petition in January 2011 and solicited written comments on this tentative decision (76 FR 5107, Jan. 28, 2011). The petition requested EPA to review the final rule, “Regulation of Oil-Bearing Hazardous Secondary Materials From the Petroleum Refining Industry Processed in a Gasification System To Produce Synthesis Gas,” published in the **Federal Register** on January 2, 2008 (73 FR 57). The EPA has considered the

petition, along with information contained in the rulemaking docket, as well as the five public comments received on the tentative denial. After evaluating all of this information, EPA has decided to issue a final determination denying the petition. In a letter from EPA Assistant Administrator Mathy Stanislaus dated April 3, 2012, EPA provided the petitioner with its final decision to deny the administrative petition. The letter, which is included as an Appendix to this **Federal Register** document explains EPA’s reasons for denying the petition, as well as discussing the other comments received on the tentative denial.

Appendix: Letter to Earthjustice Denying Administrative Petition

Ms. Lisa Gollin Evans
Earthjustice
21 Ocean Avenue
Marblehead, MA 01945

Dear Ms. Evans:

This letter is written to inform you of our final determination to deny the April 1, 2008 administrative petition you submitted to the U.S. Environmental Protection Agency (EPA or the agency) under the Resource Conservation and Recovery Act (RCRA) § 7004(a), 42 U.S.C. § 6974(a) on behalf of the Sierra Club and the Louisiana Environmental Action Network (LEAN) (hereafter referred to as “Sierra Club”). Sierra Club requested that EPA review the final rule, “Regulation of Oil-Bearing Hazardous Secondary Materials from the Petroleum Refining Industry Processed in a Gasification System to Produce Synthesis Gas” (Gasification Rule). This final rule was published in the **Federal Register** on January 2, 2008 (73 FR 57, *et seq.*). The petition raised both procedural (notice and comment) and substantive grounds for seeking the agency’s review of the Gasification Rule. EPA has made a final determination to deny the petition and in accordance with the regulatory requirements of 40 CFR 260.20, EPA is providing notice of this determination to deny the petition in the **Federal Register**.

A tentative denial was issued on January 19, 2011, and published in the **Federal Register** on January 28, 2011 (76 FR 5107).