

Test laboratories applying for acceptance as a CPSC-accepted third party conformity assessment body to test to the new standard for gates and enclosures would be required to meet the third party conformity assessment body accreditation requirements in part 1112. When a laboratory meets the requirements as a CPSC-accepted third party conformity assessment body, it can apply to the CPSC to have 16 CFR part 1239, *Safety Standard for Gates and Enclosures*, included in its scope of accreditation of CPSC safety rules listed for the laboratory on the CPSC website at: [www.cpsc.gov/labsearch](http://www.cpsc.gov/labsearch).

In connection with the part 1112 rulemaking, CPSC staff conducted an analysis of the potential impacts on small entities of the proposed rule establishing accreditation requirements, 77 FR 31086, 31123–26 (May 24, 2012), as required by the RFA and prepared an Initial Regulatory Flexibility Analysis (IRFA). The IRFA concluded that the requirements would not have a significant adverse impact on a substantial number of small laboratories because no requirements are imposed on laboratories that do not intend to provide third party testing services under section 14(a)(2) of the CPSA. The only laboratories that are expected to provide such services are those that anticipate receiving sufficient revenue from providing the mandated testing to justify accepting the requirements as a business decision. Laboratories that do not expect to receive sufficient revenue from these services to justify accepting these requirements would not likely pursue accreditation for this purpose. Similarly, amending the part 1112 rule to include the NOR for gates and enclosures would not have a significant adverse impact on small laboratories. Moreover, based upon the number of laboratories in the United States that have applied for CPSC acceptance of the accreditation to test for conformance to other juvenile product standards, we expect that only a few laboratories will seek CPSC acceptance of their accreditation to test for conformance with the gates and enclosures standard. Most of these laboratories will have already been accredited to test for conformance to other juvenile product standards and the only costs to them would be the cost of adding the gates and enclosures standard to their scope of accreditation. As a consequence, the Commission certifies that the proposed notice requirements for the gates and enclosures standard will not have a significant impact on a substantial number of small entities.

#### XIV. Request for Comments

This proposed rule begins a rulemaking proceeding under section 104(b) of the CPSIA for the Commission to issue a consumer product safety standard for gates and enclosures, and to amend part 1112 to add gates and enclosures to the list of children's product safety rules for which the CPSC has issued an NOR. In addition to requests for specific comments elsewhere in this NPR, the Commission invites all interested persons to submit comments on any aspect of the proposed rule.

Comments should be submitted in accordance with the instructions in the **ADDRESSES** section at the beginning of this notice.

#### List of Subjects

##### 16 CFR Part 1112

Administrative practice and procedure, Audit, Consumer protection, Reporting and recordkeeping requirements, Third party conformity assessment body.

##### 16 CFR Part 1239

Consumer protection, Imports, Incorporation by reference, Infants and children, Labeling, Law enforcement, and Toys.

For the reasons discussed in the preamble, the Commission proposes to amend parts 1112 and 1239 of Title 16 of the Code of Federal Regulations as follows:

#### PART 1112—REQUIREMENTS PERTAINING TO THIRD PARTY CONFORMITY ASSESSMENT BODIES

- 1. The authority citation for part 1112 continues to read as follows:

**Authority:** 15 U.S.C. 2063; Pub. L. 110–314, section 3, 122 Stat. 3016, 3017 (2008).

- 2. Amend § 1112.15 by adding paragraph (b)(49) to read as follows:

**§ 1112.15 When can a third party conformity assessment body apply for CPSC acceptance for a particular CPSC rule and/or test method?**

\* \* \* \* \*

(b) \* \* \*

(49) 16 CFR part 1239, *Safety Standard for Gates and Enclosures*.

\* \* \* \* \*

- 3. Add part 1239 to read as follows:

#### PART 1239—SAFETY STANDARD FOR GATES AND ENCLOSURES

Sec.

1239.1 Scope.

1239.2 Requirements for Gates and Enclosures.

**Authority:** Sec. 104, Pub. L. 110–314, 122 Stat. 3016 (15 U.S.C. 2056a).

#### § 1239.1 Scope.

This part establishes a consumer product safety standard for gates and enclosures.

#### § 1239.2 Requirements for gates and enclosures.

Each gate and enclosure must comply with all applicable provisions of ASTM F1004–19, *Standard Consumer Safety Specification for Expansion Gates and Expandable Enclosures*, approved on June 1, 2019. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428; [www.astm.org/cpsc.htm](http://www.astm.org/cpsc.htm). You may inspect a copy at the Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html).

**Alberta E. Mills,**

*Secretary, Consumer Product Safety Commission.*

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**BILLING CODE 6355–01–P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[EPA–R03–OAR–2019–0246; FRL–9996–06–Region 3]

#### Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Amendments to the Control of Emissions of Volatile Organic Compounds From Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve part of a state implementation plan (SIP) revision submitted by the District of Columbia (the District) on August 29, 2018. The part of the August 29, 2018 SIP revision being proposed for approval is an update to the 2002 Mobile Equipment Repair and

Refinishing (MERR) model rule to incorporate the Ozone Transport Commission's (OTC) 2009 Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations regulations (MVMERR) model rule, which was adopted by the District in 2016. The MVMERR rules establish volatile organic compounds (VOC) content limits for coating and cleaning solvents used in vehicle refinishing and standards for coating application, work practices, monitoring, and recordkeeping. The remaining part of the August 29, 2018 SIP revision addressed the District's VOC Reasonable Available Control Technology (RACT) requirements for the 2008 ozone national ambient air quality standards (NAAQS). EPA will address the VOC RACT portion of the SIP revision in a separate rulemaking action. This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before August 7, 2019.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2019-0246 at <https://www.regulations.gov>, or via email to [spielberger.susan@epa.gov](mailto:spielberger.susan@epa.gov). For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Gregory A. Becoat, 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) 814-2036. Mr. Gregory A. Becoat can also be reached via electronic mail at [becoat.gregory@epa.gov](mailto:becoat.gregory@epa.gov).

**SUPPLEMENTARY INFORMATION:** On August 29, 2018, the District of Columbia Department of Energy and Environment (DOEE) submitted a SIP revision for EPA approval which included the District's 2016 update to its 2002 MERR rule, found at Title 20 (Environment), District Municipal Regulations (DCMR) Subtitle A (Air Quality), Chapter 7—Volatile Organic Compounds. The District's 2016 update revised its existing, SIP-approved 2002 MERR rule to include the OTC's 2009 MVMERR model rule. The DOEE's August 29, 2018 SIP revision also addressed all the VOC requirements of RACT set forth by the CAA for the 2008 8-hour ozone NAAQS (the 2008 VOC RACT Submission). The portion addressing the 2008 VOC RACT requirements will be addressed in a separate rulemaking notice.

## I. Background

### A. General

Ozone is formed in the atmosphere by photochemical reactions between VOCs and nitrogen oxides (NO<sub>x</sub>) in the presence of sunlight. In order to reduce these ozone concentrations, the CAA requires control of VOC and NO<sub>x</sub> 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 and the District.<sup>1</sup> The District is part of the OTR and, therefore, must comply with the RACT requirements in section 184(b)(1)(B) and (2) of the CAA. 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 was 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 2002 MERR model rule was originally approved by EPA into the District's SIP on December 23, 2004 (69 FR 76857) as part of a regional effort to attain and maintain the 1-hour ozone NAAQS. The 2009 MVMERR Model Rule is a revision of the 2002 MERR Model Rule

<sup>1</sup> Only a portion of the Commonwealth of Virginia is included in the OTR.

developed by the OTC. The California Air Resources Board (CARB) Suggested Control Measure (SCM) for Automotive Coatings, published October 2005, formed the basis for the revisions to the 2009 MVMERR Model Rule.

### 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).

## II. Summary of SIP Revision

On August 29, 2018, the DOEE submitted a SIP revision which included the District's 2016 update to its 2002, SIP-approved MERR rule to incorporate the OTC's 2009 Model Rule for Motor Vehicle and Mobile Equipment Non-Assembly Line Coating

Operations Regulations. A redline/strikeout version showing the changes is included in the docket for this action. If approved, the SIP revision would make the District's 2016 amended rule federally enforceable. The OTC's 2009 MVMERR model rule was established to reduce VOC emissions from automotive coatings and cleaning solvents associated with the non-assembly line refinishing or recoating of motor vehicles, mobile equipment, and their associated parts and components.

The District submitted amendments to Sections 714—Control Techniques, Section 718—Mobile Equipment Repair

and Refinishing, and Section 799—Definitions, in order to implement the OTC's 2009 MVMERR model rule. Affected sources include: Auto body and repair facilities, fleet operator repair and paint facilities, new and used auto dealer repair and paint facilities, and after-market auto customizing and detailing facilities located throughout the District; manufacturers, suppliers, and distributors of coatings and cleaning solvents intended for use and application to motor vehicles, mobile equipment, and associated components within the District; 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 District. The District's amendments establish revised VOC content limits, as set forth in Table 1, for automotive coatings and cleaning solvents used in the preparation, application, and drying phases of vehicle refinishing. The District's amendments also establish coating application standards, work practices, operator training standards, and compliance and recordkeeping standards. Table 1 lists the revised VOC limits adopted by the District in 2016.

**TABLE 1—ALLOWABLE VOC CONTENT IN AUTOMOTIVE COATINGS FOR MOTOR VEHICLE AND MOBILE EQUIPMENT NON-ASSEMBLY LINE REFINISHING AND RECOATING**

Coating category	VOC regulatory limit as applied*	
	(Pounds per gallon)	(Grams per liter)
Adhesion promoter .....	4.5	540
Automotive pretreatment coating .....	5.5	660
Automotive primer .....	2.1	250
Clear coating .....	2.1	250
Color coating, including metallic/iridescent color coating .....	3.5	420
Multicolor coating .....	5.7	680
Other automotive coating type .....	2.1	250
Single-stage coating, including single-stage metallic/iridescent coating .....	2.8	340
Temporary protective coating .....	0.50	60
Truck bed liner coating .....	1.7	200
Underbody coating .....	3.6	430
Uniform finish coating .....	4.5	540

\* VOC regulatory limit as applied = Weight of VOC per Volume of Coating (prepared to manufacturer's recommended maximum VOC content, minus water and non-VOC solvents).

Table 2 sets forth the old VOC limits from the 2002 MERR rule that were previously adopted into the District's regulations and approved as SIP

revisions by EPA. The revised rule allows automotive refinishing facilities in operation as of February 9, 2016 to use automotive coatings complying with

Table II and existing stocks of solvents until March 1, 2017.

**TABLE 2—ALTERNATIVE ALLOWABLE CONTENT OF VOCs IN AUTOMOTIVE COATINGS FOR MOTOR VEHICLE AND MOBILE EQUIPMENT NON-ASSEMBLY LINE REFINISHING AND RECOATING**

Coating category	VOC regulatory limit as applied*	
	(Pounds per gallon)	(Grams per liter)
Automotive pretreatment primer .....	6.5	780
Automotive primer-surfacer .....	4.8	575
Automotive primer-sealer .....	4.6	550
Single stage-topcoat .....	5.0	600
2 stage basecoat/clearcoat .....	5.0	600
3 or 4-stage basecoat/clearcoat .....	5.2	625
Automotive multicolored .....	5.7	680
Automotive specialty coating .....	7.0	840

\*\* VOC regulatory limit as applied = Weight of VOC per Volume of Coating (prepared to manufacturer's recommended maximum VOC content, minus water and non-VOC solvents).

### III. Proposed Action

EPA has reviewed the District's updated Motor Vehicle and Mobile Equipment Non-Assembly Line Coating

Operations Regulations rule and is proposing to approve this rule as a SIP revision. EPA concludes that the District's updated MVMERR rule in 20

DCMR Sections 714.3(a)(1), 718, and 799 are consistent with the requirements and limits in the OTC's 2009 MVMERR model rule. EPA is

soliciting public comments on the issues discussed in this document relevant to the District's update of the 2002 MERR model rule to incorporate the OTC's 2009 MVMERR model rule. These comments will be considered before taking final action.

#### IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference revisions to 20 DCMR Sections 714.3(a)(1), 718, and 799. 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 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 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 SIP approvals are exempted 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 under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the 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 rule, the District's update to the 2002 MERR 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.

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

Dated: June 24, 2019.

**Diana Esher,**

*Acting Regional Administrator, Region III.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA-R04-OAR-2019-0153; FRL-9995-58-Region 4]**

### Air Plan Approval; North Carolina: Amendments of Air Quality Rules

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the North Carolina Department of Environmental Quality, Division of Air Quality (DAQ), through a letter dated March 21, 2018, readopting and amending air quality

rules related to transportation conformity requirements in the State of North Carolina. This action is being taken pursuant to section 110 of the Clean Air Act (CAA or Act).

**DATES:** Comments must be received on or before August 7, 2019.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2019-0153 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

#### FOR FURTHER INFORMATION CONTACT:

Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. Ms. Sheckler's telephone number is (404) 562-9222. She can also be reached via electronic mail at [sheckler.kelly@epa.gov](mailto:sheckler.kelly@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Overview

EPA is proposing to approve a SIP revision submitted by DAQ, through a letter dated March 21, 2018, seeking to readopt and amend the air quality rules pertaining to transportation conformity in the North Carolina SIP.<sup>1</sup> North Carolina's SIP submission revises the following North Carolina regulations in 15A NCAC 2D Section .2000: Section .2001 *Purpose, Scope and Applicability*, Section .2002 *Definitions*, Section .2003 *Transportation Conformity*

<sup>1</sup> EPA received the official electronic version of the submittal on April 4, 2018. EPA has already taken action on the other North Carolina changes submitted through the cover letter dated March 21, 2018, in a separate action. See 84 FR 14308.