§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 96–NM–105–AD.

Applicability: Model A320 airplanes as listed in Airbus Service Bulletin A320–57–1013, Revision 1, dated September 29, 1992; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking in the rib flange on the front spar side of the wing center section, and consequent reduced structural integrity of fuselage frame 36 and the wing center section, accomplish the following:

(a) Prior to the accumulation of 16,000 total landings, or within 3 months after the effective date of this AD, whichever occurs later, modify the rib flange on the front spar of the wing center section by installing shims and new fasteners to reinforce pressure floor fittings, in accordance with Airbus Service Bulletin A320–57–1013, Revision 1, dated September 29, 1992.

Note 2: Modification of the rib flange accomplished prior to the effective date of this AD in accordance with Airbus Service Bulletin A320–57–1013, dated April 12, 1989, is considered acceptable for compliance with the modification required by this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 3, 1997.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–1352 Filed 1–17–97; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY–092–1–9649b; FRL–5653–8]

Approval and Promulgation of Revisions to the Commonwealth of Kentucky's State Implementation Plan (SIP)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State implementation plan (SIP) revision submitted by the Commonwealth of Kentucky through the Kentucky Natural Resources and Environmental Protection Cabinet submitted revisions to the Kentucky SIP. This revision exempts acetone and perchloroethylene (tetrachloroethylene) from the list of compounds regulated as volatile organic compounds (VOC) for ozone control purposes.

In the final rules section of this Federal Register, the EPA is approving the Commonwealth of Kentucky's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by February 20, 1997.

ADDRESSES: Written comments on this action should be addressed to Kimberly Bingham, at the EPA Regional Office listed below. Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

Environmental Protection Agency, Region 4, Air Planning Branch, Atlanta Federal Center, 100 Alabama Street SW, Atlanta, GA 30303–3104

Natural Resources and Environmental Protection Cabinet, 803 Schenkel Lane, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham of the EPA Region IV Air Programs Branch at (404) 562–9038 and at the above address.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this Federal Register.

Dated: November 4, 1996.

A. Stanley Meiburg,

Acting Regional Administrator.

[FR Doc. 97–1334 Filed 1–17–97; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[Region II Docket No. NJ26–1–161, FRL–5678–3]

Approval and Promulgation of Implementation Plans; New Jersey; Consumer and Commercial Products Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the proposed approval of a revision to the New Jersey State Implementation Plan (SIP) for the attainment and maintenance of the national ambient air quality standards for Ozone. The SIP revision was submitted by the New Jersey Department of Environmental Protection and consists of the adopted new rule Subchapter 24, ''Control and Prohibition of Volatile Organic Compounds (VOCs) from Consumer and Commercial Products,'' which establishes limits on the amount of VOCs contained in certain consumer and commercial products. The intended effect is to reduce the emission of VOCs which will assist in attaining the health based ozone air quality standard.

DATES: Comments must be received on or before February 20, 1997.

ADDRESSES: All comments should be addressed to: Ronald J. Borsellino,

Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, New York, New York 10007–1866.

Copies of the state submittal(s) are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Quality Planning, 401 East State Street, CN418, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Environmental Engineer, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION:

Background

On January 25, 1996, the New Jersey Department of Environmental Protection (NJDEP) submitted to EPA a revision to the New Jersey State Implementation Plan (SIP) for the attainment and maintenance of the national ambient air quality standards (NAAQS) for Ozone. The revisions to the New Jersey Ozone SIP reflect the adoption to New Jersey Administrative Code (N.J.A.C) of 7:27–24 entitled ''Control and Prohibition of Volatile Organic Compounds from Consumer and Commercial Products,'' (Subchapter 24). This new rule was adopted by New Jersey on October 3, 1995, and became effective upon publication in the New Jersey Register on November 6, 1995. This portion of New Jersey's Ozone SIP submittal was found to be complete on March 15, 1996, pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51 Appendix V.

State Submittal

New Jersey's January 25, 1996 SIP revision submittal consists of new rule Subchapter 24, which establishes limits on the amount of volatile organic compounds (VOC) or high volatility organic compounds (HVOC) contained in certain consumer and commercial products. Certain products manufactured after April 30, 1996, and sold for use in New Jersey are subject to these VOC content limits. The types of consumer and commercial products regulated by this new rule and the corresponding VOC content limits are listed in the table below.

VOC CONTENT LIMITS FOR CONSUMER PRODUCTS

Consumer product category	Maximum allowable VOC content (percent by weight)
Air Fresheners:	
Single phase aerosol	70
Double-phase aerosol	30
Liquid/pump	18
Solid/gel	3
Antiperspirants:	
Aerosol	HVOC 60
Non-aerosol	HVOC 0
Bathroom and tile cleaners:	
Aerosols	7
All other forms	5
Carburetor choke cleaners	75
Cooking sprays, aerosol	18
Deodorants:	
Aerosol	HVOC 20
Non-aerosol	HVOC 0
Dusting aids:	
Aerosol	35
All other forms	7
Engine degreasers	75
Fabric protectants	75
Floor polishes/waxes:	
Products for flexible flooring material.	7
Products for nonresilient flooring.	10
Wood floor wax	90
Furniture maintenance products, aerosol.	25
General purposes cleaners	10
Glass cleaners:	
Aerosols	12
All other forms	8
Hair mousses	16
Hair sprays	80
Hair styling gels	6
Household adhesives:	
Aerosol	75
Contact	80
Construction and panel	40
General purpose	10
Structural waterproof	([1])
Insecticides:	
Crawling bug	40
Flea and tick	25
Flying bug	35
Foggers	45
Lawn and garden	20
Laundry prewash:	
Aerosol/solids	22
All other forms	5
Laundry starch products	5
Nail polish removers	85
Oven Cleaners:	
Aerosol/pump sprays	8
Liquids	5
Shaving creams	5

[1] Reserved.

In March 1995, EPA published a Report to Congress entitled ''Study of Volatile Organic Compound Emissions from Consumer and Commercial Products,'' (EPA–453/R–94–066–A). Based on the information provided in this report, the NJDEP expects to achieve VOC emission reductions of 7.9 tons per day from the 1990 baseline emissions. This level of emission reductions when achieved, constitutes a 18 percent reduction from the 1990 baseline emissions for the categories regulated in Subchapter 24. These emission reductions reflect a per capita VOC emission reduction of 0.75 pounds of VOC per person per year.

Applicability

Subchapter 24 applies to any person who sells, offers for sale, holds for sale, distributes, supplies, or manufactures any consumer product listed in the table above for use in New Jersey. Consumer products that are sold in New Jersey for shipment and use outside of the State of New Jersey are exempt from the VOC content limits, and administrative and testing requirements of Subchapter 24. This exemption reflects the intent to regulate only the manufacture and distribution of consumer products that are actually used in New Jersey and not to interfere in the transportation of goods that are destined for outside of the State.

The VOC content limits included in Subchapter 24, do not apply to consumer products manufactured prior to April 30, 1996 provided such consumer products have a date of manufacture code on the container or packaging. This provision allows the manufacturers and distributors sufficient notice and a reasonable amount of time, from the state effective date of the rule, to comply with VOC content limits contained in Subchapter 24.

Subchapter 24 excludes certain products from the applicable VOC content limits. The rationale for these exclusions is that the products do not emit VOCs, or there are no existing acceptable alternatives, or because the active ingredient is present in concentrated form resulting in less VOC emissions. Such products that are exempt are: bait station insecticides that contain bait weighing more than 0.5 ounces; household adhesives sold in a container of one fluid ounce or less or a container of more than one United States gallon (128 fluid ounces); air fresheners or insecticides which contain at least 98 percent by weight para-dichlorobenzene; air fresheners consisting entirely of fragrance, inorganic compounds, or compounds excluded from the definition of VOC in Subchapter 24. Generally, these exclusions are consistent with similar regulations in other states and have been approved by EPA.

Certain substances for the purposes of determining the VOC content on consumer products are excluded from the requirements of Subchapter 24, specifically, VOCs with known low vapor pressures of less than 0.1 millimeters of mercury at 20 degrees Celsius, VOCs with unknown vapor pressures consisting of more than 12 carbon atoms per molecule, and VOCs with unknown vapor pressures that have melting points higher than 20 degrees Celsius and do not sublime. Examples of such compounds include high molecular weight resins used in hair sprays and the heavy oils used in furniture polishes. Subsection 24 also excludes fragrances up to a combined two percent by weight contained in any consumer product.

Subchapter 24 also provides for granting exemptions for products that reduce VOC emissions using non-traditional methods, referred to as ''innovative products.'' The concept behind an innovative product provision is to provide an alternative to complying with the specified content standard found in the rule. A product may be exempted from VOC content standards if the manufacturer demonstrates that due to some characteristics of the formulation, design, delivery system or other factor, VOC emissions resulting from the use of the innovative product would be less than the emissions resulting from the use of a representative product that meets the VOC content standard.

If a manufacturer was granted an innovative product exemption pursuant to the California Air Resource Board (CARB) consumer products regulations (Title 17, Subchapter 8.5, article 1, section 94503.5 or article 2, section 94511 of the California Code of Regulations), the manufacturer may also claim this exclusion by submitting a copy of the CARB exemption decision and CARB's statement of the conditions on its approval of the exemption to the NJDEP.

As stated in their response to comments, New Jersey commits to forwarding all innovative product exemptions that New Jersey accepts to EPA, Region 2, in order for EPA to be able to determine compliance with the New Jersey SIP, once it is approved. SIP revisions would not be necessary for such innovative products excluded from complying with the VOC content limits of Subchapter 24, because the VOC emissions from such products have been demonstrated to be less than those from a complying product and because an appropriate level of opportunity for public comment regarding the mechanisms and criteria for such exclusions has been made during New Jersey's proposal of new rule Subchapter 24.

In addition, CARB's rules, measures and procedures for their consumer products regulation have been approved by EPA as part of the California SIP. CARB's consumer products rule includes a ''federal enforceability'' provision which requires that those innovative product exemptions approved by CARB be submitted to EPA Region 9 as SIP revisions after adhering to a specific procedure or mechanism. Since New Jersey is recognizing only those innovative product exemptions approved by CARB, and which are required to be federally enforceable through CARB's rule, it would be redundant to have New Jersey submit those exemptions to EPA Region 2 for EPA approval.

In addition, Subchapter 24 provides relief due to extraordinary reasons that are beyond the reasonable control of the manufacturers of regulated consumer products. The maximum allowable VOC content limits do not apply to any consumer product if an agency of another state, which has an adopted consumer product variance provision in its rules as of December 2, 1995, has granted to the manufacturer of that product a variance. This exclusion shall be effective in New Jersey until the other state agency's approved variance expires or is revoked, at which time the exclusion from the requirements of Subchapter 24 shall automatically expire. This exclusion shall be effective in New Jersey provided that the manufacturer claiming this exclusion submits a copy of the state agency's exemption decision and statement of the conditions of the state agency's approval of the exemption to the NJDEP.

As stated in their response to comments, New Jersey commits to forwarding all variances pursuant to Subchapter 24 to EPA, Region 2, in order for EPA to be able to determine compliance with the New Jersey SIP, once it is approved. Since there is already a specific procedure or mechanism established for making the variances federally enforceable, it is not necessary to go through the process again.

Administrative Requirements

Subchapter 24 requires manufacturers of consumer products subject to Subchapter 24, to submit a registration report to the NJDEP by October 1, 1996 which identifies the categories of products they manufacture and the specific products affected by the rule.

Each manufacturer of a consumer product subject to Subchapter 24 is required to clearly display on each consumer product container or packaging the month and year in which the product was manufactured (or a code indicating such date). This will allow the verification of whether the product was required to meet the VOC content limits specified in Subchapter 24.

Subchapter 24 also requires manufacturers of consumer products to keep records demonstrating compliance with the VOC content limits. These records are required to be kept for a period of at least three years and shall be made available within 30 days upon request. In addition, manufacturers of consumer products are required to submit within 90 days upon request, estimations of the product quantities sold in New Jersey. This provision enables the NJDEP to conduct an emission estimation survey at a future date. Any person who submits information to the NJDEP pursuant to Subchapter 24 may assert a confidentiality claim in accordance with the procedures specified in N.J.A.C. 7:27–1.6.

Test Methods

Compliance is determined using mass balance based on manufacturers' formation data and records of raw material purchase. Further analysis could make use of methods which are shown to accurately determine the concentration of VOCs in a product. Such methods shall include any methods issued by EPA or CARB which have been established for the measurement of VOCs in consumer products. Subchapter 24 does not cite any specific analytical method for determining the VOC content of consumer products as such methods are currently being developed by CARB and EPA. Until specific analytical methods become available, compliance with Subchapter 24 will rely heavily upon manufacturer's records of the constituents used to produce the consumer products.

Federal Supersession

Subchapter 24 includes a provision which addresses any potential conflicts between New Jersey's Subchapter 24 and any national consumer products rule EPA may issue. Generally, Subchapter 24 provides that where a Federal rule establishes a VOC content limit or product applicability criteria that differs from New Jersey's requirement, the Federal rule shall supersede New Jersey's regulation. However, where the Federal rule does not regulate the VOC content of a product category for which Subchapter

24 has established a limit, New Jersey's regulation shall remain in effect. On April 2, 1996, EPA proposed national VOC emission standards for consumer products, 61 FR 14531, which includes similar consumer products and VOC content limits as those approved by New Jersey. It is anticipated that the national rule will be promulgated in 1997.

Conclusion

EPA has evaluated the revisions to the New Jersey Ozone SIP which consists of the adoption of a new rule Subchapter 24, ''Control and Prohibition of Volatile Organic Compounds from Consumer and Commercial Products,'' and has determined that all of the provisions contained in Subchapter 24 are consistent with EPA policy and guidance and are approvable. Therefore, EPA is proposing approval of Subchapter 24.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements

Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The Administrator's decision to approve or disapprove the SIP revision will be based on whether it meets the requirements of section 110(a)(2)(A)–(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: December 30, 1996.

William J. Muszynski,

Acting Regional Administrator.

[FR Doc. 97–1370 Filed 1–17–97; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[IL143–1b; FRL–5671–4]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve Illinois' January 8, 1996, submittal of a site-specific State Implementation Plan (SIP) revision request for Reynolds Metals Company's McCook Sheet and Plate Plant in McCook, Illinois (in Cook County). The purpose of this request is to amend the State's volatile organic material (VOM) reasonably available control technology (RACT) requirements for Reynolds' aluminum rolling operations to mirror the facility's RACT requirements promulgated under the Chicago area Federal Implementation Plan. In the final rules section of this Federal Register, the EPA is approving this action as a direct final rule without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received on or before February 20, 1997.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR18–J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal are available for inspection at: Regulation Development Section, Air Programs Branch (AR18–J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.