

(%) Reasonable Further Progress control measures for Volatile Organic Compound emission, and the State's requirement to develop post-1990 Control Techniques Guidelines (CTG) Reasonably Available Control Technology (RACT) rules for the 4 counties. These regulations require wood furniture coating facilities which have the potential to emit at least 25 tons of VOC per year to use coatings which meet a certain VOC content limit or add on controls that are capable of achieving an equivalent reduction. 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 If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. 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 November 29, 1996.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and EPA's analysis of it are available for inspection at: Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Francisco Acevedo, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6061.

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

Dated: September 5, 1996.
William E. Muno,
Acting Regional Administrator.
[FR Doc. 96-27608 Filed 10-29-96; 8:45 am]
BILLING CODE 6560-50-P

40 CFR PART 52

[LA-37-1-7320b, TX-75-1-7319b; FRL-5629-8]

Approval and Promulgation of Air Quality Plans, Texas and Louisiana; Revision to the Texas and Louisiana State Implementation Plans Regarding Negative Declarations for Source Categories Subject to Reasonably Available Control Technology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Section 172(c)(1) of the Clean Air Act (the Act) requires nonattainment areas to reduce emissions from existing sources by adopting, at a minimum, reasonably available control technology (RACT). The EPA has established 13 such source categories for which RACT must be implemented and issued associated Control Technique Guidelines (CTGs) or Alternate Control Techniques (ACTs). If no major sources of volatile organic compound (VOC) emissions for a source category in a nonattainment area exist, a State may submit a negative declaration for that category. Louisiana has submitted negative declarations for certain source categories in the Baton Rouge ozone nonattainment area. Texas has submitted negative declarations for certain source categories in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston ozone nonattainment areas. Their declarations include the following CTG source categories: offset lithography, plastic parts-business machines, plastic parts-others, wood furniture, aerospace coatings, autobody refinishing, shipbuilding and repair, industrial wastewater, and clean up solvents. The EPA proposes to approve these negative declarations for Louisiana and Texas.

DATES: Comments on this proposed rule must be postmarked by November 29, 1996.

ADDRESSES: Comments should be mailed to Thomas H. Diggs, Chief, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. Copies of the State's submittal and other information relevant to this action are available for inspection during normal hours at the following locations:

Environmental Protection Agency,
Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700,
Dallas, Texas 75202-2733
Louisiana Department of Environmental Quality, Office of Air Quality, 7290 Bluebonnet Blvd., Baton Rouge, LA 70810
Texas Natural Resource Conservation Commission (TNRCC), Office of Air Quality, 12124 Park 35 Circle, Austin, TX 78753.

Anyone wishing to review this submittal at the EPA office is asked to contact the person below to schedule an appointment 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7219.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the Rules Section of this Federal Register.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental regulations, Ozone, Reporting and recordkeeping, and Volatile organic compounds.

Authority: 42 U.S.C. 7401-7671q.

Dated: September 30, 1996.

Jerry Clifford,

Acting Regional Administrator.

[FR Doc. 96-27605 Filed 10-29-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[RI-12-6969b; FRL-5608-2]

Approval and Promulgation of Implementation Plans; Limited Approval and Limited Disapproval of Implementation Plans; Rhode Island

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The EPA is proposing action on State Implementation Plan (SIP) revisions submitted by the State of Rhode Island. The EPA is proposing approval of Rhode Island's 1990 base year ozone emission inventory, two control measures contained within the Rhode Island contingency plan, and establishment of a Photochemical Assessment Monitoring Stations (PAMS) network, as revisions to the Rhode Island SIP for ozone because these submittals meet the EPA's approval criteria that are relevant for these programs. The EPA proposes a

limited approval and limited disapproval of SIP revisions submitted by the State of Rhode Island to meet the 15 Percent Rate of Progress (ROP) Plan and contingency measure requirements of the Clean Air Act (CAA) primarily because the submittals contain control measures that are likely to achieve some, but not all of the emission reductions required of such submittals.

In the final rules section of today's Federal Register, the EPA is approving the Rhode Island 1990 base year inventory, VOC control measures pertaining to Consumer and Commercial Products, and Architectural and Industrial Maintenance (AIM) coatings, and the establishment of a PAMS network as a direct final rule without prior proposal, because the Agency views these as noncontroversial revision amendments and anticipates no adverse comments. A detailed rationale for each approval is set forth in the direct final rule. The EPA is not publishing a direct final rule for the limited approvals and limited disapprovals of the 15 percent ROP and contingency plans. If no adverse comments are received on this direct final rule, no further activity is contemplated in relation to this proposed rule for these revisions. 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: Public comments on this document are requested and will be considered before taking final action on this SIP revision. Comments on this proposed action must be post marked by November 29, 1996.

ADDRESSES: Written comments on this action should be addressed to Susan Studlien, Deputy Director, Office of Ecosystem Protection, Environmental Protection Agency, Region I, JFK Federal Building, Boston, Massachusetts, 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA Region I office, and at the Rhode Island Department of Environmental Management, Division of Air Resources, 291 Promenade Street, Providence, Rhode Island, 02908-5767. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Robert F. McConnell, Air Quality

Planning Unit, EPA Region I, JFK Federal Building, Boston, Massachusetts, 02203; telephone (617) 565-9266.

SUPPLEMENTARY INFORMATION: For supplementary information regarding the Rhode Island 1990 base year emission inventory, consumer and commercial products rule, AIM rule, and establishment of a PAMS network, see the information provided in the direct final action of the same title which is located in the rules section of the Federal Register.

Background

Section 182(b)(1) of the CAA as amended in 1990 requires ozone nonattainment areas with classifications of moderate and above to develop plans to reduce area-wide VOC emissions by 15 percent from a 1990 baseline. The plans were to be submitted by November 15, 1993 and the reductions were required to be achieved within 6 years of enactment or November 15, 1996. The Clean Air Act also sets limitations on the creditability of certain types of reductions. Specifically, States cannot take credit for reductions achieved by Federal Motor Vehicle Control Program (FMVCP) measures (new car emissions standards) promulgated prior to 1990 or for reductions resulting from requirements to lower the Reid Vapor Pressure (RVP) of gasoline promulgated prior to 1990. Furthermore, the CAA does not allow credit for corrections to Vehicle Inspection and Maintenance Programs (I/M) or corrections to Reasonably Available Control Technology (RACT) rules (so called "RACT fix-ups") as these programs were required prior to 1990.

In addition, sections 172(c)(9) and 182(c)(9) of the CAA require that contingency measures be included in the plan revision to be implemented if the area misses an ozone SIP milestone, or fails to attain the standard by the date required by the CAA.

The entire state of Rhode Island is classified as a serious ozone nonattainment area, and is therefore subject to the 15 Percent ROP requirements. The area is referred to as the Providence ozone nonattainment area. Rhode Island submitted a final 15 percent ROP plan to EPA on May 23, 1994. The plan contained adopted rules for all of the VOC control measures identified within the plan except for the enhanced vehicle inspection and maintenance (I&M) program. The EPA deemed the Rhode Island 15 percent plan incomplete by letter dated May 17, 1994, due to the lack of an adopted rule for the I&M program. Rhode Island submitted an adopted rule for an

enhanced I&M program to the EPA on November 18 and December 28, 1994. By letter dated January 18, 1995, EPA notified Rhode Island that the enhanced I&M submittal had been deemed complete. Additionally, the letter stated that the submittal of the enhanced I&M program allowed EPA to deem the Rhode Island 15 percent plan complete, thereby stopping a sanctions clock which had been started on January 12, 1994 due to the lack of a complete 15 percent plan from the state.

The EPA has analyzed Rhode Island's submittal and believes that the proposed 15 Percent Plan and Contingency Plan can be given limited approval because they would strengthen the SIP by achieving reductions in VOC emissions. These plans do not, however, achieve the total required percentage of reductions. Therefore, the EPA is proposing a limited disapproval of the plans. For a complete discussion of EPA's analysis of the Rhode Island 15 Percent ROP plan and Contingency Plan, please refer to the Technical Support Document for this action which is available as part of the docket supporting this action. A summary of the EPA's findings follows.

Emission Inventory

The base from which States determine the required reductions in the 15 Percent Plan is the 1990 emission inventory. The EPA is approving the Rhode Island 1990 emission inventory with a direct final action in the rules section of today's Federal Register. The inventory approved by the EPA exactly matches the one used in the 15 Percent ROP plan calculations.

Calculation of Target Level Emissions

Rhode Island subtracted the non-creditable reductions from the FMVCP from the 1990 inventory, and accurately adjusted the inventory to account for the RVP of gasoline sold in the state in 1990. These modifications result in the 1990 adjusted inventory. The total emission reduction required to meet the 15 Percent ROP Plan requirements equals the sum of the following items: 15 percent of the adjusted inventory, reductions that occur from noncreditable programs such as the FMVCP and RVP programs as required prior to 1990, reductions needed to offset any growth in emissions that takes place between 1990 and 1996, and reductions that result from corrections to the I/M or VOC RACT rules. Table 1 summarizes these calculations for the Providence serious ozone nonattainment area.

TABLE 1.—CALCULATION OF REQUIRED REDUCTIONS (TONS/DAY)

1990 Anthropogenic Emission Inventory	184.1
1990 Adjusted Inventory	168.4
15% of Adjusted Inventory	25.3
Non-creditable Reductions	15.7
1996 Target	143.1
1996 ¹ Projected, Uncontrolled Emissions	181.7
Required Reduction ²	38.6

¹ 1996 emissions for on-road mobile sources were calculated using an emission factor that reflected the level of control achieved by the FMVCP in 1996.

² Required Reductions were obtained by subtracting 1996 target from the 1996 projected uncontrolled inventory.

Measures Achieving the Projected Reductions

Rhode Island has provided a plan to achieve the reductions required for the Providence serious ozone nonattainment area. The following is a concise description of each control measure Rhode Island used to achieve emission reduction credit within its 15 percent ROP plan. The EPA has previously approved all of the following control measures with the exception of the enhanced vehicle I/M program, and agrees with the emission reductions projected in the State submittals except where noted in Table 2 under the heading "Noncreditable Reductions."

A. Point Source Controls

Rhode Island projects that a total of 9.11 tons per summer day (tpsd) in emission reductions will occur from the following point source categories:

Surface Coating

Section 182(b)(2)(B) of the CAA requires that moderate and above ozone nonattainment areas adopt rules to require RACT for all VOC sources in the area covered by any *Control Technique Guideline* (CTG) issued before the date of the enactment of the Clean Air Act amendments of 1990. Rhode Island imposed new RACT controls on facilities involved in the following surface coating processes to meet this requirement (these controls are referred to as "RACT Catch-ups"):

- * Surface Coating of Coils
- * Surface Coating of Metal Furniture
- * Surface Coating of Magnet Wire
- * Surface Coating of Large Appliances
- * Surface Coating of Miscellaneous Metal Parts
- * Surface Coating of Flat Wood Paneling
- * Surface Coating of Wood Products

Rhode Island Air Pollution Control Regulation Number 19, "Control of Volatile Organic Compounds from Surface Coating Operations," covering

all of the above named emission source categories was submitted to EPA on November 11, 1992, and approved by EPA as part of the RI SIP in a Federal Register notice published on October 18, 1994 (59 FR 52427). Emission reductions from these rules are creditable toward the ROP requirement. The EPA agrees with the reductions projected in the Rhode Island 15 Percent ROP plan due to these RACT catch up rules (1.39 tpsd).

Printing

Rhode Island lowered the applicability threshold within Air Pollution Control Regulation Number 21, "Control of Volatile Organic Compound Emissions from Printing Operations," which led to VOC control requirements at additional facilities in the state. The revised Rhode Island printing rule was submitted to EPA on January 25, 1993, and approved as part of the Rhode Island SIP within a Federal Register notice dated July 7, 1995 (60 FR 35361). The EPA agrees with the reductions projected in the Rhode Island 15 Percent ROP plan due to the applicability change to this rule, (0.66 tpsd).

Non-CTG Sources

Rhode Island Air Pollution Control Regulation Number 15, entitled "Control of Organic Solvent Emissions," requires that major sources (facilities with the potential to emit greater than 50 tons per year of VOC) that are not covered by an existing CTG must reduce their emissions. The state submitted this RACT rule to EPA on January 12, 1993. The rule was proposed for approval as part of the RI SIP in a Federal Register notice dated July 7, 1995 (60 FR 35361). The EPA agrees with the majority of the emission reductions projected in the Rhode Island 15 Percent ROP plan due to the rule, with one exception. Discussions with staff at the Rhode Island Department of Environmental Management (RI-DEM) indicate that the emission reductions projected from one source are not going to occur because the source never exceeded the 50 tpy threshold. The source will not be required to comply with this rule, and the 0.21 tpsd reduction that RI-DEM had projected will not occur.

Although Rhode Island has submitted an adopted non-CTG RACT rule to EPA, and this rule has been proposed for approval by EPA into the Rhode Island SIP, the single source non-CTG RACT determinations for the sources that Rhode Island has claimed emission reduction credit for in its 15 percent SIP have not been submitted. EPA cannot fully approve Rhode Island's 15 percent

SIP until all of the non-CTG RACT determinations that the state is relying upon as part of the 15 percent VOC emission reduction plan are submitted to the EPA and approved as single source sip revisions. Accordingly, the emission reductions claimed by Rhode Island from this rule (1.30 tpsd) are currently not creditable towards the 15 percent ROP requirement.

Air Toxic Sources

Rhode Island projects that a small amount of VOC emission reductions will occur due to the impact of its Air Pollution Control Regulation Number 22, "Air Toxics," at several facilities in the state. Rhode Island has adopted an air toxics rule, but has not submitted this rule to the EPA for approval under section 112(l) as a federally enforceable toxics requirement. Section 182(b)(1)(C) requires creditable reductions to be in the State's implementation plan, EPA rules, or Title V permits. The RI-DEM's Air Toxics rule is none of these, so the reductions RI-DEM is claiming (0.17 tpsd) are currently not creditable toward the 15 percent ROP requirement.

Marine Vessel Loading

Rhode Island has adopted a VOC control regulation for the loading of marine vessels with petroleum. The state submitted an adopted Marine Vessel Loading rule to EPA on March 15, 1994. On April 4, 1996, the EPA published a direct final rulemaking (61 FR 14975) approving the rule as a revision to the Rhode Island SIP. The EPA agrees with the reductions projected in the Rhode Island 15 Percent ROP plan due to the implementation of this rule (4.79 tpsd).

Plant Closures

Rhode Island's 15 percent plan identifies facilities that will cease operations between 1990 and 1996. The state has used the emission reductions generated from these plant closures as part of its 15 percent ROP plan. The state is aware that the emission reductions from these facilities cannot be used for other purposes, such as to meet the emissions offset provisions of the new source review program, or as a source of a tradeable emission commodity.

There is a minor discrepancy in the amount of emission reductions projected from plant closures within the State's 15 percent ROP plan. The Appendix C spreadsheet that lists the facilities in the State from which emission reductions are expected by 1996 indicates that 0.79 tpsd in reductions will occur due to plant shutdowns, yet page 9 of the State's

plan claims 0.84 tpsd in reductions. The EPA is approving the value of 0.79 tpsd in emission reductions projected in Appendix C of the Rhode Island 15 Percent ROP plan.

B. Area Source Controls

Cutback Asphalt

Rhode Island has adopted and submitted to the EPA Air Pollution Control Regulation Number 25, entitled "Control of Volatile Organic Compound Emissions from Cutback and Emulsified Asphalt," which requires the use of emulsified asphalt instead of cutback asphalt for most applications. This rule was approved by the EPA as part of the Rhode Island SIP in a Federal Register notice dated October 18, 1994 (59 FR 52427). The EPA agrees with the reductions projected in the Rhode Island 15 Percent ROP plan due to the implementation of this rule (2.57 tpsd).

Automobile Refinishing

Rhode Island has adopted and submitted to the EPA Air Pollution Control Regulation Number 30, entitled "Control of Volatile Organic Compounds from Automobile Refinishing Operations," that will limit VOC emissions from this source category by regulating the VOC content of automotive refinishing products and by requiring the use of applicators that achieve at least a 65% transfer efficiency. Additionally, spray gun cleaning and solvent storage requirements will limit VOC emissions from automobile refinishing operations. On February 2, 1996, EPA published a direct final rulemaking (61 FR 3824) approving the rule as a revision to the Rhode Island SIP.

The EPA intends to promulgate a national rule that will limit the VOC content of automobile refinishing coatings. The RI-DEM's rule achieves at least as much emission reduction as the EPA's proposed rule. The RI-DEM's rule has additional requirements beyond those found in the EPA's draft rule that justify RI-DEM's higher reduction projection. The EPA believes that the State rule will result in the emission reduction levels projected in Rhode Island's 15 percent ROP plan from this source category (2.97 tpsd).

Stage II

Rhode Island has adopted and submitted to the EPA Air Pollution Control Regulation number 11, "Petroleum Liquids Marketing and Storage," that will limit VOC emissions from automobile refueling activity. The rule was approved as a revision to the Rhode Island SIP within a Federal

Register notice published on December 17, 1993 (58 FR 65930). The EPA agrees with the emission reduction credit claimed by the state due to the implementation of this program, (3.30 tpsd).

C. On-Road Mobile Source Controls

Vehicle Inspection and Maintenance

The 15 percent ROP plan relied on an enhanced vehicle I/M program that was developed by the State of Rhode Island and submitted to EPA on November 18, 1994 and December 28, 1994. EPA evaluated these submittals and made a completeness finding on January 18, 1995. Rhode Island has calculated a reduction of 14.93 tpsd from their enhanced I/M program. In light of the recent I/M flexibility and policy issued by EPA, Rhode Island has indicated an interest in re-evaluating their enhanced I/M program to take advantage of the I/M flexibility. However, at this point Rhode Island has not implemented their enhanced I/M program as submitted in its I/M SIP submittal, nor has the State submitted a revised enhanced I/M SIP. Since the State has not implemented its current enhanced I/M program, and the State has failed to develop a substitute enhanced I/M program, the EPA has no basis for crediting the emission reductions that the RI-DEM projected to result from its enhanced I/M program. Thus, the reductions for this portion of the plan cannot be approved (14.93 tpsd).

Reformulated Gasoline (RFG)

Section 211(k) of the Clean Air Act requires that after January 1, 1995 in severe and above ozone nonattainment areas, only reformulated gasoline be sold or dispensed. This gasoline is reformulated to burn cleaner and produce fewer evaporative emissions. The state of Rhode Island is a "serious" ozone nonattainment area and therefore is not required to sell reformulated fuels. On March 14, 1991 the State submitted a letter from the Governor requesting that Rhode Island participate in the reformulated fuels program. This request was published in the Federal Register on August 13, 1991, 56 FR 38434. The EPA agrees with the emission reduction calculated by the state due to the sale of reformulated gasoline (5.71 tpsd).

Tier I Federal Motor Vehicle Control Program (FMVCP)

The EPA promulgated standards for 1994 and later model year light-duty vehicles and light-duty trucks (56 FR 25724 (June 5, 1991)). Since the standards were adopted after the CAA

amendments of 1990, the resulting emission reductions are creditable toward the 15 percent reduction goal. The EPA agrees with the emission reductions calculated by Rhode Island due to the FMVCP, (0.20 tpsd).

D. Non-Road Mobile Source Controls

As previously discussed, Rhode Island has opted in to the reformulated gasoline program. In addition to reducing VOC emissions from on-road motor vehicles, the sale of this gasoline will also reduce VOC emissions from non-road equipment. The EPA agrees with the emission reductions projected by Rhode Island to occur due to the sale of reformulated gasoline, 0.97 tpsd.

Table 2 summarizes the creditable and noncreditable Emission reductions contained within the Rhode Island 15 percent ROP plan.

TABLE 2.—Summary of Creditable and Noncreditable Emission Reductions: Providence, RI Ozone Nonattainment Area (Tons/day)

Required Reduction	38.6
<i>Creditable Reductions:</i>	
Surface Coating	1.39
Printing	0.66
Marine Vessel Loading	4.79
Plant Closures	0.79
Cutback Asphalt	2.57
Auto Refinishing	2.97
Stage II	3.30
Reform, On-road	5.71
Tier I	0.20
Reform, Off-road	0.97
Total	23.35
<i>Noncreditable Reductions:</i>	
Inspection & Maintenance	14.93
Non-CTG Sources	1.30
Air Toxics Sources	0.17
Plant Closures	0.05
Total noncreditable	16.45
Short fall	15.25

Contingency Measures

Ozone nonattainment areas classified as serious or above must submit to the EPA, pursuant to sections 172(c)(9) and 182(c)(9) of the CAA, contingency measures to be implemented if an area misses an ozone SIP milestone or does not attain the national ambient air quality standard by the applicable date. The General Preamble to Title I, (57 FR 13498 (April 16, 1992)) states that the contingency measures should, at a minimum, ensure that an appropriate level of emission reduction progress continues to be made if attainment or RFP is not achieved and additional planning by the State is needed. The EPA interprets this provision of the CAA to require States with moderate

and above ozone nonattainment areas to submit sufficient contingency measures so that upon implementation of such measures, additional emission reductions of three percent of the adjusted base year inventory (or a lesser percentage that will make up the identified shortfall) would be achieved in the year after the failure has been identified (57 FR at 13511). States must show that their contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions such as public hearings or legislative review.

Analysis of Contingency Measures

Commercial and Consumer Products

Under section 183(e)(9) of the CAA, States may develop and submit to the Administrator a procedure under State law to regulate commercial and consumer products, provided they consult with the EPA regarding other State and local regulations for commercial and consumer product rules. Rhode Island has consulted the EPA and other States to utilize the collective expertise of other regulatory bodies in drafting and adopting their regulation. The rule applies to any person who sells, offers for sale, or manufactures commercial and consumer products in Rhode Island.

Commercial and Consumer products are defined to include products sold retail or wholesale and used by household, commercial, or institutional consumers. Rhode Island submitted an adopted commercial and consumer products rule to EPA on March 15, 1994. The rule contains standards for the VOC content of products in 12 categories. The rule contains an exemption for commercial and consumer products which have been granted an exemption to the California Air Resources Board (CARB) Consumer Products Regulation under the Innovative Products provisions of the CARB rule.

The EPA is approving the Rhode Island Commercial and Consumer Products rule in the rules section of the Federal Register because the rule will strengthen the SIP. EPA intends to promulgate a national rule for the regulation of consumer and commercial products under section 183 of the CAA in the near future. A comparison of Rhode Island's consumer and commercial products rule to the current version of the pending federal rule, however, indicates that Rhode Island has overestimated the control effectiveness of its rule.

A comparison of the products that will be covered by the pending national

rule and Rhode Island's rule reveals that the national rule will cover more source categories. From this review, it was determined that Rhode Island's rule will only be 58.4% as effective in reducing emissions from the consumer products as the federal rule. The major reason is that Rhode Island's rule does not contain emission limits for auto windshield washer fluids or household adhesives. The emissions from these two categories are substantial, and the national rule will have emission limits for both categories.

The RI-DEM analyzed the effectiveness of its commercial products rule using projections STAPPA/ALAPCO developed based on implementing California's Commercial products rule. The EPA believes that gaps in RI-DEM's rule are substantial enough that these projections are unreliable, and EPA is instead crediting Rhode Island with the reductions EPA anticipates from its rule, or 1.1 tpsd.

Architectural and Industrial Maintenance (AIM) Coatings

On March 15, 1994, Rhode Island submitted a rule regulating the VOC content of AIM coatings. The EPA is approving Rhode Island's AIM regulation within the rules section of the Federal Register because the rule will strengthen the SIP.

The EPA intends to promulgate a national rule for this emission source category. In a memo dated March 22, 1995, the EPA provided guidance on the expected reductions from the national rule. It is expected that emissions would be reduced by 20 percent. Although Rhode Island has adopted its own AIM rule, the state based its emission reduction projections on previous guidance from the EPA that indicated a 25 percent reduction would occur from the federal rule. The EPA has evaluated Rhode Island's AIM rule, and does not agree with the reductions projected in excess of 20 percent. Therefore, the EPA is discounting RI-DEM's projected 2.4 tpsd reduction by 0.5 tpsd, for a creditable reduction of 1.9 tpsd.

Surplus Emission Reduction From 15 Percent Plan

Rhode Island's contingency plan included 1.2 tpsd of emission reduction credits that were considered surplus reductions from the state's 15 percent ROP plan. The EPA cannot approve these emission reduction credits, because the lack of a motor vehicle inspection and maintenance program and the other deficiencies noted above have erased the surplus and created an emission reduction shortfall within the 15 percent ROP plan.

Table 3 summarizes the creditable and noncreditable emission reductions contained within the Rhode Island contingency plan.

TABLE 3.—SUMMARY OF CREDITABLE AND NONCREDITABLE CONTINGENCY MEASURE REDUCTIONS: PROVIDENCE, RHODE ISLAND (TONS/DAY)

Required Contingency	5.0
Creditable Contingency Reductions:	
Consumer Products	1.1
AIM Coatings	1.9
Total	3.0
Noncreditable Contingency Reductions:	
Consumer Products	0.8
AIM Coatings	0.5
Excess from 15 percent Plan	1.2
Total noncreditable	2.5
Short fall	2.0

Proposed Action

The EPA has evaluated these submittals for consistency with the CAA, EPA regulations, and EPA policy. The Rhode Island 15 Percent ROP plan will not achieve enough reductions to meet the 15 percent ROP requirements of section 182(b)(1) of the CAA. Additionally, the portion of the State's contingency plan consisting of the two VOC control regulations does not meet the requirements of section 172(c)(9) of the CAA. These regulations are triggered upon failure of the State to meet ROP requirements, but are not also triggered by failure of the State to attain the NAAQS for ozone by the area's attainment date as required by section 172(c)(9). In light of these deficiencies, the EPA cannot grant full approval of these plan revisions under Section 110(k)(3) and Part D. However, the EPA may grant a limited approval of the submitted plans under section 110(k)(3) and section 301(a) since the rules making up the 15 Percent Plan and the Contingency Plan will result in a certain percentage of VOC emission reductions. Thus, the EPA is proposing a limited approval of the Rhode Island 15 Percent Plan and Contingency Plan under sections 110(k)(3) and 301(a) of the CAA. The EPA is also proposing a limited disapproval of the Rhode Island 15 Percent plan under sections 110(k)(3) and 301(a) because the submittal does not fully meet the requirements of section 182(b)(1) of the CAA for the 15 Percent Rate of Progress Plans, and the plan does not achieve the required emission reductions. In addition, the EPA is proposing a limited disapproval of the Rhode Island Contingency plan.

The plan does not meet the requirements of sections 172(c)(9) and 182(c)(9) for contingency measures because the plan, if implemented, will not achieve the required 3 percent emission reduction. Additionally, the plan does not fully meet the requirements of section 172(c)(9) regarding implementation of contingency measures if the area's attainment date is not met according to the schedule outlined within the CAA.

Rhode Island has expressed its intention to submit a revised vehicle I/M program. The additional reductions from vehicle I/M may serve to correct the shortfall identified in this proposed Federal Register Action. Alternatively, Rhode Island could implement its existing I/M program. To gain full approval of its 15 percent plan, Rhode Island will need to submit a revised plan that documents the necessary enforceable reductions, such as those resulting from a revised I/M program and other enforceable measures identified above, to meet the 15 percent rate of progress requirements and include sufficient contingency measures to achieve a 3 percent reduction.

The EPA believes that approval of the contingency measures will strengthen the SIP. Therefore, within the rules section of today's Federal Register the EPA is approving the control measures in the Rhode Island Contingency Plan.

Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: highway funding and the imposition of emission offset requirements. The 18-month period referred to in section 179(a) will begin on the effective date established in the final limited disapproval action. If the deficiency is not corrected within 6 months of the imposition of the first sanction, the second sanction will apply. This sanctions process is set forth at 59 FR 39832 (Aug. 4, 1994), to be codified at 40 CFR 52.31. Moreover, within two years of the final disapproval of a required SIP submission, the EPA shall promulgate a federal implementation plan (FIP) under section 110(c).

On January 18, 1995, the EPA made a completeness determination on the Rhode Island 15 percent plans with an approval of the established motor vehicle emission budget for use in

transportation conformity determinations. Because the motor vehicle emission budget is based to a significant extent upon an I/M program not being implemented by Rhode Island, EPA has determined that budget can no longer satisfy the necessary emission reductions required. EPA, therefore, is proposing to rescind the protective finding³ in its final disapproval action. EPA is notifying the State, the Metropolitan Planning Organizations, the U.S. Federal Highway Agency, and the U.S. Federal Transit Administration of the effect of a disapproval action on conformity in Rhode Island. The conformity status of the transportation plan and transportation improvement program shall lapse 120 days after EPA's final disapproval without a protective finding, and no new project-level conformity determinations may be made. Furthermore, no new transportation plan, TIP, or projects may be found to conform until another control strategy implementation plan revision fulfilling the same Clean Air Act requirements is submitted, found complete and conformity to this submission is determined.

Nothing in this proposed rule 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 any 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

A. 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 has exempted this action from review under Executive Order 12866.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or

³ *Protective finding* means a determination by EPA that the control strategy contained in a submitted control strategy implementation plan revision would have been considered approvable with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by Clean Air Act section 110(a)(2)(A).

final rule on small entities (5 U.S.C. 603 and 604). Alternatively, the 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 sections 110 and 301, 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 CAA, preparation of a regulatory 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 US EPA*, 427 US 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The EPA's proposed limited disapproval of the State request under sections 110 and 301, and subchapter I, Part D of the CAA does not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements remain in place after this proposed limited disapproval. Federal disapproval of the State submittal does not affect its State-enforceability. Moreover, the EPA's limited disapproval of the submittal does not impose any new Federal requirements. Therefore, the EPA certifies that this proposed limited disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements, nor does it impose any new Federal requirements.

C. Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector; or to State, local, or tribal governments in the aggregate.

Through submission of these SIP revisions which have been proposed for limited approval in this action, the State and any affected local or tribal governments have elected to adopt the program provided for under section 182 of the CAA. The rules and commitments

given limited approval in this action may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules and commitments being given limited approval by this action will impose or lead to the imposition of any mandate upon the State, local, or tribal governments, either as the owner or operator of a source or as a regulator, or would impose or lead to the imposition of any mandate upon the private sector; the EPA's action will impose no new requirements. Such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Therefore, the EPA has determined that this proposed action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

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

Dated: August 21, 1996.

John P. DeVillars,

Regional Administrator, EPA Region I.

[FR Doc. 96-27603 Filed 10-29-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 70

[AD-FRL-5641-9]

Clean Air Act Proposed Interim Approval of Operating Permits Program; Pinal County Air Quality Control District, Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: The EPA is proposing interim approval of the revised Operating

Permits Program submitted by the Arizona Department of Environmental Quality (ADEQ) on behalf of the Pinal County Air Quality Control District (Pinal) for the purpose of complying with federal requirements for an approvable state program to issue operating permits to all major stationary sources, and to certain other sources. The EPA's proposed interim approval is of specific revisions to the program originally submitted by ADEQ on Pinal's behalf on November 15, 1993 and supplemented on August 16, 1994 and August 15, 1995. The EPA proposed approval of the original program on July 13, 1995 and is taking final action elsewhere in today's Federal Register to finalize interim approval of that program.

Today's action proposes interim approval of specified portions of the Pinal County Code of Regulations amended on February 22, 1995, and submitted to EPA on August 15, 1995, that are relevant to implementation and enforcement of the Pinal County title V operating permits program. The specific provisions of Pinal's title V regulations adopted or revised on February 22, 1995 that are addressed by this proposed action are Sections 1-3-140(1a), 140(16a), 140(44), 140(56), 140(58e), 140(59), 140(66), 140(86), 140(89), and 140(146) of Article 3 of Chapter 1; Sections 3-1-042, 045(C), 050(C)(4), 050(G), 080(A), 081(A)(5)(b), 081(A)(6), 100(A), and 109 of Article 1 of Chapter 3; and Articles 5 and 7 of Chapter 3 of the Pinal County Code of Regulations (PCR).

In the final rules section of this Federal Register, EPA is promulgating interim approval of Pinal's revised title V program as a direct final rule without prior proposal because EPA views this submittal as noncontroversial and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rulemaking. 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 action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by November 29, 1996.

ADDRESSES: Written comments on this action should be addressed to: Regina Spindler, Operating Permits Section (A-5-2), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901

Copies of the District's submittal, EPA's Technical Support Document, and other supporting information used in developing the proposed approval are available for public inspection at EPA's Region IX office during normal business hours.

FOR FURTHER INFORMATION CONTACT: Regina Spindler (telephone: (415) 744-1251), Operating Permits Section (A-5-2), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule under the following title located in the Rules section of this Federal Register: Clean Air Act Final Interim Approval Of Operating Permits Program; Arizona Department of Environmental Quality, Maricopa County Environmental Services Department, Pima County Department of Environmental Quality, Pinal County Air Quality Control District, Arizona. Clean Air Act Direct Final Interim Approval of Operating Permits Program; Pinal County Air Quality Control District, Arizona.

Authority: 42 U.S.C. 7401-7671q.

Dated: October 18, 1996.

John Wise,

Acting Regional Administrator.

[FR Doc. 96-27835 Filed 10-29-96; 8:45 am]

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