

104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Today's rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, or tribal governments or the private sector nor will today's rule have a significant or unique affect on small governments. Today's rule does not contain mandates, does not establish new regulatory requirements and does not change the stringency or scope of the existing regulations. Rather, as previously explained, today's rule solely corrects errors in internal regulatory cross-references within existing regulations.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Particulate matter, Carbon monoxide, Ozone, Lead, Sulfur oxides, Reporting and recordkeeping requirements.

Dated: March 18, 1996.

Mary Nichols,

Assistant Administrator for Air and Radiation.

40 CFR part 52 is amended as follows:

PART 40—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

1. Section 52.145 is amended by revising paragraphs (d)(3)(v) through (vii) to read as follows:

§ 52.145 Visibility protection.

* * * * *

(d) * * *

(3) * * *

(v) Sum, for all affected units, the products of the daily SO₂ emission rate-electric energy generated (as calculated according to paragraph (d)(3)(iii) of this section) for the boiler operating days identified in paragraph (d)(3)(iv) of this section.

(vi) Sum, for all affected units, the daily electric energy generated (recorded according to paragraph (d)(3)(i) of this section) for the boiler operating days identified in paragraph (d)(3)(iv) of this section.

(vii) Calculate the weighted plant-wide annual average SO₂ emission rate by dividing the sum of the products determined according to paragraph (d)(3)(v) of this section by the sum of the electric energy generated determined

according to paragraph (d)(3)(vi) of this section.

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40 CFR Part 52

[RI-17-1-6968a; A-1-FRL-5405-1]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Marine Vessel Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision contains a regulation to reduce volatile organic compound (VOC) emissions from marine vessel loading operations. The intended effect of this action is to approve this regulation into the Rhode Island SIP. This action is being taken in accordance with the Clean Air Act.

DATES: This action is effective June 3, 1996, unless notice is received by May 6, 1996 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., (LE-131), Washington, D.C. 20460; and Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908-5767.

FOR FURTHER INFORMATION CONTACT: Anne E. Arnold, (617) 565-3166.

SUPPLEMENTARY INFORMATION: On March 17, 1994, EPA received a formal State Implementation Plan (SIP) submittal from the Rhode Island Department of Environmental Management (DEM) containing the following regulations:

—Regulation No. 30 “Control of Volatile Organic Compounds (VOCs) from Automobile Refinishing Operations”

—Regulation No. 31 “Control of VOCs from Commercial and Consumer Solvents”

—Regulation No. 32 “Control of VOCs from Marine Vessel Loading Operations”

—Regulation No. 33 “Control of VOCs from Architectural Coatings and Industrial Maintenance Coatings”

These regulations had been recently adopted as state law pursuant to the reasonable further progress and VOC reasonably available control technology (RACT) requirements of the Clean Air Act (CAA) [Sections 182(b)(1) and 182(b)(2)]. This direct final rulemaking notice addresses only Rhode Island's marine vessel loading regulation. The other regulations included in Rhode Island's SIP submittal will be addressed in future rulemaking actions.

Background

Under the pre-amended Clean Air Act (i.e., the Clean Air Act before the enactment of the amendments of November 15, 1990), ozone nonattainment areas were required to adopt RACT rules for sources of VOC emissions. EPA issued three sets of control technique guideline (CTG) documents, establishing a “presumptive norm” for RACT for various categories of VOC sources. The three sets of CTGs were: (1) Group I—issued before January 1978 (15 CTGs); (2) Group II—issued in 1978 (9 CTGs); and (3) Group III—issued in the early 1980's (5 CTGs). Those sources not covered by a CTG were called non-CTG sources. EPA determined that the area's SIP-approved attainment date established which RACT rules the area needed to adopt and implement. Under Section 172(a)(1), ozone nonattainment areas were generally required to attain the ozone standard by December 31, 1982. Those areas that submitted an attainment demonstration projecting attainment by that date were required to adopt RACT for sources covered by the Group I and II CTGs. Those areas that sought an extension of the attainment date under Section 172(a)(2) to as late as December 31, 1987 were required to adopt RACT for all CTG sources and for all major (i.e., 100 ton per year or more of VOC emissions) non-CTG sources.

Under the pre-amended Clean Air Act, the entire State of Rhode Island was designated as nonattainment for ozone and did not seek an extension of the attainment date under Section 172(a)(2). Therefore, the State was only required to adopt RACT for sources covered by the Group I and II CTGs. In lieu of adopting some of the Group II CTG regulations, however, Rhode Island adopted and submitted a regulation

covering all unregulated major (i.e., 100 ton per year or more of VOC emissions) non-CTG sources. However, the State of Rhode Island did not attain the ozone standard by the approved attainment date. On May 25, 1988, EPA notified the Governor of Rhode Island that portions of the SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). Rhode Island adopted corrections to the State rules on December 10, 1989 which were approved into the State SIP on September 30, 1991. On November 15, 1990, amendments to the Clean Air Act were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In Section 182(a)(2)(A) of the amended Act, Congress adopted the requirement that pre-enactment ozone nonattainment areas that retained their designation of nonattainment and were classified as marginal or above fix their deficient RACT rules for ozone by May 15, 1991. All of Rhode Island was classified as serious nonattainment for ozone. 56 FR 56694 (Nov. 6, 1991). The SIP revisions approved on September 30, 1991 made Rhode Island's RACT rules consistent with existing CTGs and no revisions were required to meet the fix-up requirements.

Section 182(b)(2) of the amended Act requires States to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the Section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing CTG—i.e., a CTG issued prior to the enactment of the 1990 amendments to the Act; (2) RACT for sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG, i.e., non-CTG sources. This RACT requirement applies to nonattainment areas that were previously exempt from certain RACT requirements to "catch up" to those nonattainment areas that became subject to such requirements during an earlier period. In addition, it requires newly designated ozone nonattainment areas to adopt RACT rules consistent with those for previously designated nonattainment areas.

In response to the RACT "catch-up" requirement, on October 30, 1992, Rhode Island adopted/revised regulations for surface coating operations, cutback asphalt, and pharmaceutical products (Regulations 19, 25, and 26, respectively). These rules were approved into the State SIP on October 18, 1994 (59 FR 52427). However, under Section 182 of the Act, the major source definition for serious nonattainment areas was lowered to

include sources that have a potential to emit 50 tons or greater of VOCs per year. In response to this requirement, Rhode Island lowered the applicability cutoff of its graphic arts and non-CTG regulations (Regulations 21 and 15, respectively) to include newly classified major sources in these categories. (See 60 FR 35361 for EPA's proposed rulemaking action on Regulations 21 and 15.)

Also in response to the Act's requirement to regulate major VOC sources, Rhode Island adopted Regulation No. 32 "Control of VOCs from Marine Vessel Loading Operations" and submitted this rule to EPA as a SIP revision on March 15, 1994. Rhode Island's Regulation No. 32, the subject of today's action, is briefly summarized below.

Regulation No. 32 "Control of VOCs From Marine Vessel Loading Operations"

This regulation applies to any loading event in which an organic liquid is loaded into marine tank vessels and to loading events in which any liquid is loaded into a marine vessel's cargo tanks if the most recent cargo held in those tanks was an organic liquid. The regulation prohibits loading events to occur unless one of the following conditions is met:

- (1) VOC emissions do not exceed 2 pounds per 1000 barrels of liquid loaded into the marine tank vessel; or
- (2) VOC emissions are reduced by at least 95 percent by weight from uncontrolled conditions if a recovery device is used or by at least 98 percent by weight from uncontrolled conditions if a combustion device is used.

This regulation also limits the loading of marine tank vessels to those vessels that are vapor tight.

Regulation No. 32 will reduce VOC emissions. VOCs contribute to the production of ground level ozone and smog. This regulation was adopted as part of an effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone. The following is EPA's evaluation of Rhode Island's Air Pollution Control Regulation Number 32.

EPA's Evaluation of Rhode Island's Submittal

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the Act and EPA regulations, as found in Section 110 and Part D of the Act and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). EPA's interpretation of these requirements,

which forms the basis for today's action, appears in various EPA policy guidance documents. The specific guidance relied on for this action is referenced within the technical support document and this notice. For the purpose of assisting State and local agencies in developing RACT rules, EPA prepared a series of CTG documents. The CTGs are based on the underlying requirements of the Act and specify presumptive norms for RACT for specific source categories. EPA has not yet developed CTGs to cover all sources of VOC emissions. Further interpretations of EPA policy are found in, but not limited to, the following: (1) The proposed Post-1987 ozone and carbon monoxide policy, 52 FR 45044 (November 24, 1987); (2) the document entitled, "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 Federal Register Notice," otherwise known as the "Blue Book" (notice of availability was published in the Federal Register on May 25, 1988); and (3) the "Model Volatile Organic Compound Rules for Reasonably Available Control Technology," (Model VOC RACT Rules) issued as a staff working draft in June of 1992. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

In addition, Section 183(f) of the amended Act specifically required EPA to promulgate RACT standards to reduce VOC emissions from the loading and unloading of marine tank vessels. On September 19, 1995 (60 FR 48388), EPA promulgated both RACT and MACT (maximum achievable control technology) standards for marine tank vessels.

EPA has evaluated Rhode Island's Regulation No. 32 and has found that it is generally consistent with EPA's national rule for marine tank vessels and other current EPA guidance. As such, EPA believes that this regulation constitutes RACT for marine vessel loading operations.

Rhode Island's regulation and EPA's evaluation are detailed in a memorandum, dated September 28, 1995, entitled "Technical Support Document—Rhode Island—Marine Vessel Rule." Copies of that document are available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this document.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to

approve the SIP revision should adverse or critical comments be filed. This action will be effective June 3, 1996 unless adverse or critical comments are received by May 6, 1996.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on June 3, 1996.

Final Action

EPA is approving Rhode Island's Regulation No. 32 "Control of Volatile Organic Compounds from Marine Vessel Loading Operations" into the Rhode Island SIP.

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 CAA 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 CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, 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 this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 182(b) of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because the affected sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final 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.

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 review under Executive Order 12866.

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

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 3, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to

enforce its requirements. (See Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Note: Incorporation by reference of the State Implementation Plan for the State of Rhode Island was approved by the Director of the Federal Register on July 1, 1982.

Dated: January 12, 1996.

John P. DeVillars,

Regional Administrator, Region I.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart OO—Rhode Island

2. Section 52.2070 is amended by adding paragraph (c)(43) to read as follows:

§ 52.2070 Identification of plan.

* * * * *

(c) * * *

(43) Revisions to the State Implementation Plan submitted by the Rhode Island Department of Environmental Management on March 15, 1994.

(i) Incorporation by reference.

(A) Letter from the Rhode Island Department of Environmental Management dated March 15, 1994 submitting a revision to the Rhode Island State Implementation Plan.

(B) Rhode Island Department of Environmental Management, Division of Air Resources, Air Pollution Control Regulation No. 32, "Control of Volatile Organic Compounds from Marine Vessel Loading Operations" effective in the State of Rhode Island on March 31, 1994, with the exception of Section 32.2.2 which Rhode Island did not submit as part of the SIP revision.

(ii) Additional materials.

(A) Nonregulatory portions of the submittal.

3. In § 52.2081, Table 52.2081 is amended by adding a new state citation "No. 32" to read as follows:

§ 52.2081 EPA—approved Rhode Island state regulations

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TABLE 52.2081.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date adopted by State	Date approved by EPA	FR citation	52.2070	Comments/unapproved sections
No. 32	Marine Vessels	3/11/94	4/4/96	60 FR 14978	(c)(43)	All of No. 32 is approved with the exception of Section 32.2.2 which Rhode Island did not submit as part of the SIP revision.

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**GENERAL SERVICES
ADMINISTRATION****41 CFR Part 101-25**

[FPMR Amendment E-277]

RIN 3090-AF91

**Use and Replacement Standards for
Electronic Typewriters and Electronic
Office Machines**

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation amends the Federal Property Management Regulations (FPMR) to delete the use and replacement standards for electronic typewriters and electronic office machines. Over time, these instructions have become obsolete. Hence, it is no longer necessary to retain these instructions in the FPMR. Removing these instructions from the FPMR will carry out the principles of the National Performance Review by unburdening all Federal agencies from unnecessary regulations. It should be noted that the instructions pertaining to office machines in §§ 101-25.104, 101-25.104-1 and 101-25.106 are being retained.

EFFECTIVE DATE: April 4, 1996.**FOR FURTHER INFORMATION CONTACT:** Nicholas Economou, FSS Acquisition Management Center at (703) 305-6936.

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866. In addition, Section 553 of the Administrative Procedures Act, requires that agencies publish a general notice of proposed rulemaking in the Federal Register so that the public has the opportunity to comment on the

proposed rule. However, the requirements of section 553 do not apply to the extent that there is involved "a matter relating to agency management or personnel or to public property, loans, grants, benefits or contracts. 5 U.S.C. 553(a)(2)." Since the subparts affected by this change deal with property management, the exemption from publication for notice and comment applies.

Regulatory Flexibility Act

The final rule is not required to be published in the Federal Register for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

List of Subjects in 41 CFR Part 101-25

Government property management.

For the reasons set out in the preamble, 41 CFR part 101-25 is amended as follows:

PART 101-25—GENERAL

1. The authority citation for part 101-25 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

2. Section 101-25.301 is amended by revising paragraph (a) to read as follows:

§ 101-25.301 General.

(a) This subpart prescribes minimum use standards for certain Government-owned personal property which shall be applied by all executive agencies. Additional criteria above these minimum standards shall be established by each executive agency, limiting its property to the minimum requirements necessary for the efficient functioning of the particular office concerned. This subpart does not apply to automatic data processing equipment (ADPE) which is covered in the Federal Information Resources Management Regulation (FIRMR) (41 CFR Chapter 201).

* * * * *

3. Section 101-25.302-2 is amended by revising paragraph (d) to read as follows:

§ 101-25.302-2 Filing cabinets.

* * * * *

(d) Shifting less active files, not transferable to approved records centers, to fiberboard storage boxes, using filing cabinets only when files are constantly used.

* * * * *

§ 101-25.302-3 [Reserved]

4. Section 101-25.302-3 is removed and reserved.

§ 101-25.302-6 [Reserved]

5. Section 101-25.302-6 is removed and reserved.

6. Section 101-25.302-7 is revised to read as follows:

§ 101-25.302-7 Draperies.

Draperies are authorized for use where justified over other types of window coverings on the basis of cost, insulation, acoustical control, or maintenance of an environment commensurate with the purpose for which the space is allocated. Determining whether the use of draperies is justified is a responsibility of the agency occupying the building or space involved after consultation with the agency operating or managing the building. Authorized draperies shall be of non-combustible or flame-resistant fabric as required in § 101-20.105-1.

§ 101-25.403 [Reserved]

7. Section 101-25.403 is removed and reserved.

8. Section 101-25.404-1 is revised to read as follows:

§ 101-25.404-1 Limitation.

Notwithstanding the provisions in § 101-25.404, agencies shall limit acquisition of new office furniture to essential requirements as provided in § 101-25.104. Replacement of correspondence filing cabinets will be