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 affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this direct 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.

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 economic 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 affected small entities. 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. section 7410(a)(2).

Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under 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 regulatory action from review under Executive Order 12866.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: February 6, 1997.

Felicia Marcus,

Regional Administrator.

Part 52, 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 F—California

2. Section 52.220 is amended by adding paragraph (c)(239)(i)(D) to read as follows:

§ 52.220 Identification of Plan.

* * * * *

(c) * * *

(239) * * *

(i) * * *

(D) Bay Area Air Quality Management District.

(*1*) Regulation 9, Rule 7, adopted on September 15, 1993; Regulation 9, Rule 8, adopted on January 20, 1993; Regulation 9, Rule 9, adopted on September 21, 1994; Regulation 9, Rule 11, adopted on November 15, 1995; Regulation 9, Rule 12, adopted on January 19, 1994.

* * * * *

[FR Doc. 97–9946 Filed 4–16–97; 8:45 am]

BILLING CODE 6560–50–W

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[RI–6972a; FRL–5711–1]

Limited Approval and Limited Disapproval of Implementation Plans; Rhode Island

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is issuing a limited approval, limited disapproval action on State Implementation Plan (SIP) revisions submitted by the State of Rhode Island. The SIP revisions consist of the State's 15 Percent Rate of Progress (ROP) Plan and contingency plan. The 15 percent ROP and contingency plans were submitted to satisfy CAA provisions that require ozone nonattainment areas classified as moderate and above to devise plans to reduce volatile organic compound (VOC) emissions 15 percent by 1996 when compared to a 1990 baseline.

DATES: This rule is effective May 19, 1997.

ADDRESSES: 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, Environmental Protection Agency, Region I, One Congress Street, 11th Floor, Boston, Massachusetts, 02203, 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: On October 30, 1996 (61 FR 55943), EPA published a notice of proposed rulemaking (NPR) for the State of Rhode Island. One portion of the NPR consisted of a proposed limited approval, limited disapproval of a revision to the Rhode Island SIP establishing a 15 Percent VOC emission reduction plan and contingency plan. The formal SIP revision was submitted by Rhode Island on March 15, 1994 and updated on May 23, 1994.

The 15 Percent and Contingency plans submitted by Rhode Island outline

a strategy to reduce hydrocarbon emissions in the Providence, Rhode Island serious nonattainment area. The specific components of the State's plans and the rationale for EPA's proposed action are explained in the NPR and will not be restated here.

The Rhode Island Department of Environmental Management (DEM) was the sole commenter on the NPR. Their comments are contained within a November 26, 1996 letter to Susan Studlien, Deputy Director, Office of Ecosystem Protection. The region has responded fully to the RI–DEM comments in a response to comments memorandum available in the docket for this action. A summary of these comments and EPA's responses appears below.

Comment—Motor Vehicle Inspection and Maintenance (I/M): The DEM acknowledges that implementation of an I/M program has not yet occurred, but points out that much work has occurred over the past several years to initiate such a program. The DEM feels that EPA's recent flexibility in the design of such programs, while laudable, has made it difficult to finalize any particular program. A brief history of the State's efforts in this area is then provided.

Response: EPA recognizes the actions taken to date by Rhode Island with regard to the implementation of an I/M program in the State. However, Rhode Island has not complied with the requirements of the Clean Air Act and EPA regulations which required that states start such programs by January 1, 1995. Rhode Island correctly notes that EPA has been modifying requirements to provide greater flexibility to states for I/M programs, and that EPA has allowed time for states to take advantage of these new provisions.

The National Highway Systems Designation Act (NHSDA) provided an opportunity with a very short time window for states to submit test-and-repair programs without the penalty previously utilized by EPA for calculating emissions from such programs, and in addition provided time for program startup. The states which took advantage of this opportunity are required to start their programs no later than November 15, 1997 in order for a full two year test cycle to occur by November 15, 1999, the date for 15% plan compliance. (There is one NHSDA program that will not start until 1998, but it has a one year test cycle.)

Rhode Island did not submit an I/M program under the NHSDA. Rhode Island is not implementing the program currently authorized in the State and has not yet proposed a substitute program. It is EPA's understanding that Rhode Island currently envisions starting testing of motor vehicles in late 1998 or early 1999, and will most likely adopt a biennial program. That schedule puts the State about one year behind virtually all other States that need emission reductions from auto emissions testing to meet the 15 percent emission reduction requirement. Since Rhode Island's 15% plan relies heavily upon the emission reductions from a motor vehicle emission testing program, the timeframe for achieving the 15 percent VOC reductions is similarly delayed. In an August 1996 memorandum from John Seitz and Margo Oge to the Regional Air Directors, EPA articulated that emission reductions from revised I/M programs that occur before November, 1999 will be allowed to count towards 15% plan emission reductions. The continued delay by Rhode Island in implementing a motor vehicle emission inspection program will make meeting the November 1999 target date increasingly difficult for the State.

Comment—Other Deficiencies: The DEM notes that EPA's proposal identifies several minor discrepancies between EPA's calculation of appropriate emission reductions and the reductions calculated by the State, as described below:

1. Comment—Submittal of Drafts, AIM Credit: The RI–DEM notes that they had submitted the regulations relied upon within the 15% plan, as well as the 15% plan itself, to EPA in draft form. EPA reviewed and commented on the draft regulations and the draft 15% plan, and should have identified these minor problems through that process but did not. Several of the problems cited, for example, the lack of inclusion of windshield wiper fluid in the consumer and commercial products rule, could have easily been addressed at that time. Additionally, EPA changed the amount of credit states could take due to the EPA's pending national rule on architectural and industrial maintenance (AIM) coatings after Rhode Island submitted its 15% plan. The DEM feels that the EPA's delay in proposing approval or disapproval of the State's plan should not be grounds for discounting credit due to a revised estimate of the emission reductions from the pending AIM rule.

Response: The DEM's 15% plan, and four VOC control regulations relied upon in the plan to achieve emission reductions were submitted in early 1994. EPA used the best information available at the time drafts of these documents were submitted to review and analyze the emission reduction claims made by the state, and made a good faith effort to identify all errors at that time. A minor discrepancy (0.05 tons per day) in the amount of credit claimed from plant shutdowns was not detected at that time, but was noted subsequent to the final submittal by the state.

During 1995, EPA finalized a report to Congress on VOC emissions from the consumer and commercial product category. Information contained in that report allowed EPA to perform a detailed analysis of the emission reductions claimed by Rhode Island from its rule on this emission source category. That review disclosed that the State had overestimated the emission reductions likely to result from this rule.

EPA agrees that Rhode Island correctly calculated the amount of credit likely to occur from the EPA's pending AIM rule based on EPA guidance available at the time of the State's submittal. However, EPA later revised the emission reduction estimate downward based on a better understanding of what the provisions of the final rule would be. The DEM could have revised its plan in light of the new guidance. EPA believes that the best information available should be used in making determinations on the emission reductions within the 15% plan, and therefore feels that the most recent guidance memorandum on credit from the AIM rule is the appropriate tool to use to analyze the State's credit claim.

With regard to delays by EPA in processing the State's SIP, EPA did not feel it was appropriate to move forward with an approval or disapproval of Rhode Island's 15% plan given the uncertain status of the State's auto emission testing program. EPA chose to propose disapproval of the State's plan when it became clear that significant delays were occurring in the implementation of the program.

2. Comment—Air Toxics and Non-Control Technique Guideline (CTG) Reductions: The DEM's comments reflect that EPA's only reason for not approving the emission reduction credit generated by these programs is that they have not been submitted to EPA as SIP revisions. The DEM notes that since the reductions have occurred, according to the Transportation Conformity Regulation, these deficiencies could be protected by a protective finding and should not trigger the transportation consequences indicated in the proposed disapproval.

Response: Section 182(b)(1)(C) of the Clean Air Act requires creditable reductions to be in a State's implementation plan, EPA rules, or

Title V permits. As discussed within the proposed action, Rhode Island can receive credit from these programs by incorporating the relevant documents into the State's SIP.

The DEM's claim that pursuant to the EPA's Transportation Conformity Regulation these deficiencies could be protected by a protective finding is not correct. EPA's rationale for not proposing to institute a protective finding was based on the failure of the state to implement an auto emission testing program, not on the failure to incorporate air toxics and non-CTG orders into the State's SIP. The failure to implement the auto emission testing program has made the State's mobile source emission budget unrealistic, and therefore a protective finding was not proposed.

3. Comment—Basis for Proposed Disapproval: The DEM notes their understanding that based on conversations with EPA staff, the non-I/M deficiencies noted in the proposed disapproval would not of themselves have led EPA to propose disapproval of the State's 15% plan, and that a recalculation of the State's 15% plan using updated growth assumptions could negate the need for these non- I/M reductions. DEM requests that EPA's final rule should clearly state that the failure to secure I/M reductions formed the basis of EPA's action, and that the other issues may not be an issue once the ROP calculations are updated.

Response: EPA agrees that it based its proposed disapproval action primarily on the failure of the State to secure I/M reductions. The proposed disapproval notice contained a table outlining the magnitude of the noncreditable emission reductions from which it can clearly be seen that the failure to achieve reductions from I/M caused the majority of the shortfall. EPA also agrees that the other issues may not be of consequence once the State revises its plan. It is possible that the State will design and implement an I/M program that will achieve sufficient reductions to yield an approvable 15% plan without addressing EPA's issues on the non-I/M elements of the plan. But a great deal depends on the design and timing of Rhode Island's I/M program, which is still so uncertain that EPA cannot predict whether Rhode Island will ultimately need to revise the non-I/M elements of its plan. Additionally EPA notes that the State's current intention to revise its 15% plan to incorporate updated growth assumptions presents an opportunity for the State to make these minor corrections and to submit the SIP revisions necessary to make the non-CTG and air toxics emission reductions creditable towards the 15% reduction.

Comment—Proposed Action, Conformity Lapse: The DEM notes that EPA's proposal stipulates that a conformity lapse will occur 120 days after a final disapproval action, and that after the lapse no new project level conformity determinations may be made. The DEM agrees that this is consistent with EPA's current conformity rule, but points out that under a proposed revision to the EPA's conformity rule published in July of 1996, a lapse would be imposed 2 years after a final disapproval action, and that a conformity freeze rather than a lapse would be imposed 120 days after a final disapproval action.

The DEM notes that the 15% plan was submitted in the Spring of 1994, and that EPA, by proposing action on the plan at this point in time, gives the appearance of attempting to rush the action through so that a lapse will occur in the State instead of the less punitive freeze. The DEM feels this is inappropriate, particularly in light of the State's good faith efforts to implement I/M in the State. Accordingly, DEM urges EPA to delay finalizing the disapproval action until the conformity amendments are finalized. DEM, in turn, will continue to move forward with I/M as expeditiously as possible, and will introduce I/M legislation in January of 1997. The DEM also pledges to update its 15% plan and submit a revised plan to the EPA as an SIP revision.

Response: EPA did not propose action on Rhode Island's 15% plan in the fall of 1996 in an attempt to ensure that a conformity lapse, rather than a freeze, occur. Contrary to Rhode Island's suggestion that EPA is hurrying this action, EPA has been exceedingly deliberate in its approach to Rhode Island's 15% plan and I/M program. The EPA has delayed action on most 15% plans because most of these plans relied substantially on the reductions from I/M programs, and most I/M programs have been delayed. In 1995, EPA revised its criteria for acceptable I/M programs. The goal of the revised I/M criteria was to give states flexibility in the design of such programs. The NHSDA of 1995 outlines the EPA's revised I/M criteria, and set a timetable for States to implement the revised criteria. Rhode Island did not meet this timetable, and it was that failure that finally led EPA to propose disapproval of Rhode Island's 15% plan. Although EPA hopes that Rhode Island is committed to implementing I/M, the fact is that the State is significantly behind similar efforts being made by other States.

On January 17, 1997, EPA's Regional Administrator sent a letter to Governor Almond addressing the issue of the timing of a conformity lapse. Within that letter, EPA notes that once the proposed revisions to the conformity rule are finalized, Rhode Island will be subject to their provisions, regardless of when the final disapproval action is published for the State's 15% plan. Therefore, if EPA's conformity rule is finalized as it was proposed, and prior to the expiration of the 120 day conformity lapse clock required by the current conformity rule, a conformity freeze rather than a lapse will be imposed on the state. If EPA's conformity rule is finalized after expiration of the 120 day clock, a lapse would go into effect. The lapse, however, would convert to a freeze once EPA's conformity rule is finalized, presuming the final conformity rule reflects the position on this issue articulated in the proposal.

Final Action

The EPA is issuing a limited approval, limited disapproval of the Rhode Island 15 Percent ROP and Contingency plans. The Rhode Island 15 Percent ROP plan will not achieve enough reductions to meet the 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 VOC emission reductions and will strengthen the SIP. Thus, the EPA is issuing 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 issuing 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 issuing 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 or other enforceable measures, to meet the 15 percent rate of progress requirements and include sufficient contingency measures to achieve a 3 percent reduction.

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: The imposition of emission two for one offset requirements, and loss of certain highway funding. 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 is no longer credible. EPA, therefore, is rescinding the protective finding [1] through this 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. Under the current Transportation Conformity Regulations, the conformity status of the transportation plan and transportation improvement program shall lapse 120 days after the effective date of 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.

The timeframe for the conformity lapse, which as discussed above is 120 days after the effective date of EPA's final disapproval action, could be changed by a revision to EPA's conformity rule. On July 9, 1996, EPA published (61 FR 36112) a proposed rule which would modify the Transportation Conformity rule. A key provision contained in the proposal was a change in the penalty that occurs 120 days after a final disapproval action. Instead of a lapse, a less punitive conformity freeze was proposed to occur in 120 days. In EPA's proposed conformity rule revision, the more restrictive lapse would be imposed 2 years after a final disapproval action. Therefore, if the conformity rule is finalized as proposed, the conformity lapse will take place 2 years from the effective date of the final disapproval action, and a freeze would be imposed in the period between 120 days and 2 years following the effective date of this action. Rhode Island will ultimately be subject to the provisions contained in EPA's final conformity rule.

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.

[1] *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).

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 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 *U.S. EPA*, 427 US 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The EPA's 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 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 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 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 costs to State, local, or tribal governments in the aggregate; or to the 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 promulgated does not include a Federal mandate that may result in estimated 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.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) of the Regulatory Flexibility Act as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

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 16, 1997. 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, Nitrogen dioxide, Ozone.

Dated: March 8, 1997.

John P. DeVillars,

Regional Administrator, EPA 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)(50) to read as follows:

§ 52.2070 Identification of plan.

* * * * * *

(c) * * *

(50) Revisions to the State Implementation Plan submitted by the Rhode Island Department of Environmental Management on March 15, 1994. The revisions consist of the State's 15 Percent Plan and Contingency Plan. EPA is approving only the following portions of these submittals: 15 Percent Plan—the EPA is approving the calculation of the required emission reductions, and the emission reduction credit claimed from surface coating, printing operations, marine vessel loading, plant closures (0.79 tons per day approved out of 0.84 claimed), cutback asphalt, auto refinishing, stage II, reformulated gas in on-road and off-road engines, and tier I motor vehicle controls. Contingency Plan—the EPA is approving the calculation of the required emission reduction, and a portion of the emission reduction credits claimed from Consumer and Commercial products (1.1 tons per day approved out of 1.9 tons claimed), and architectural and industrial maintenance (AIM) coatings (1.9 tons per day approved out of 2.4 tons claimed). EPA is concurrently disapproving portions of these SIP submissions, as discussed within § 52.2084(a)(2).

(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.

2. Section 52.2084 is amended by adding paragraph (a)(2) to read as follows:

§ 52.2084 Rules and Regulations.

* * * * *

(a) * * *

(2) Revisions to the State Implementation Plan submitted by the Rhode Island Department of Environmental Management on March 15, 1994. The revisions consist of the State's 15 Percent Plan and Contingency Plan. EPA is disapproving the following portions of these SIP submittals: 15 Percent Plan—Emission reductions claimed from motor vehicle inspection and maintenance program, non-CTG sources, air toxic sources, and plant closures (0.05 tons per day disapproved out of 0.84 tons claimed). Contingency Plan—a portion of the credit claimed from consumer and commercial products (0.8 tons per day disapproved out of 1.9 tons claimed), and a portion of the credit claimed from AIM coatings (0.5 tons per day disapproved out of 2.4 tons claimed).

[FR Doc. 97–9949 Filed 4–16–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–0016; FRL–5802–6]

Clean Air Act Approval and Promulgation of PM_{10} Implementation Plan for Denver, CO

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving the State Implementation Plan (SIP) revisions submitted by the Governor of Colorado for the purpose of bringing about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}) in the Denver area. The SIP revisions were submitted to satisfy certain Federal requirements for an approvable moderate nonattainment area PM_{10} SIP for Denver and, among other things, contain enforceable control measures. The bulk of the revisions were submitted on March 30, 1995. Revisions to Colorado Regulation No. 13 (oxygenated fuels), which is one of the control measures relied on in the SIP, were adopted by the Air Quality Control Commission