

Port Arthur region, negative declarations were submitted for the following eight categories: clean-up solvents, aerospace coatings, shipbuilding and repair, wood furniture, plastic part coatings-business machines, plastic part coatings-others, autobody refinishing, and offset lithography. For Dallas/Fort Worth, negative declarations were submitted for six categories: industrial wastewater, clean-up solvents, shipbuilding and repair, autobody refinishing, plastic part coatings-business machines, and offset lithography. For the Houston/Galveston area, negative declarations were submitted for seven categories: clean-up solvents, aerospace coatings, wood furniture, plastic part coatings-business machines, plastic part coatings-others, autobody refinishing, and offset lithography. For El Paso, negative declarations were submitted for nine categories: industrial wastewater, clean-up solvents, aerospace coatings, shipbuilding and repair, wood furniture, plastic part coatings-business machines, plastic part coatings-others, autobody refinishing, and offset lithography. This submittal satisfies section 182(b)(2) of the Clean Air Act Amendments of 1990 for these particular CTG/ACT source categories for the Texas ozone nonattainment areas stated in this paragraph (c) (103).

(i) *Incorporation by reference.* The letter dated January 10, 1996, from the Governor of Texas to the Regional Administrator, submitting the Post-1996 Rate of Progress Plan as a revision to the SIP, which included VOC RACT negative declarations.

(ii) *Additional material.* Pages 53, 55 through 59, 61, 63, and 64 of the Post-1996 Rate of Progress Plan, adopted by the Texas Natural Resource Conservation Commission on December 13, 1995.

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40 CFR Part 52

[RI-12-6969a; FRL-5608-1]

Approval and Promulgation of Implementation Plans; Rhode Island

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA today is approving State Implementation Plan (SIP) revisions submitted by the State of Rhode Island. These revisions consist of the 1990 base year ozone emission inventory, Photochemical Assessment

Monitoring System (PAMS) network, and volatile organic compound (VOC) regulations that will serve as contingency measures for the Rhode Island SIP.

The inventory was submitted by the State to satisfy a Clean Air Act (CAA) requirement that States containing ozone nonattainment areas submit inventories of actual ozone precursor emissions in accordance with guidance from the EPA. The ozone emission inventory submitted by the State is for the Providence, Rhode Island serious area. The PAMS SIP revision was submitted to satisfy the requirements of the CAA and the PAMS regulations. The PAMS regulation required the State to provide for the establishment and maintenance of an enhanced ambient air quality monitoring network in the form of PAMS by November 12, 1993. The VOC regulations were submitted to fulfill a CAA requirement that contingency measures be implemented if Reasonable Further Progress (RFP) is not achieved or if the standard is not attained by the applicable date. The intended effect of this action is to approve as a revision to the Rhode Island SIP the state's 1990 base year ozone emission inventory, PAMS network, Commercial and Consumer products regulation, and Architectural and Industrial Maintenance (AIM) coating regulation.

DATES: This action will become effective on December 30, 1996 unless notice is received by November 29, 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: 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 Group, EPA Region I, JFK Federal Building, Boston, Massachusetts, 02203; telephone (617) 565-9266.

SUPPLEMENTARY INFORMATION: Rhode Island has submitted the following formal revisions to its SIP to the EPA: 1990 base year emission inventory of ozone precursors, submitted in final form on March 15, 1994; establishment of a PAMS network into the State's overall ambient air quality monitoring network, submitted on January 14, 1994; a VOC control regulation pertaining to consumer and commercial products submitted on March 15, 1994; a VOC control regulation pertaining to architectural and industrial maintenance coatings submitted on March 15, 1994. This document is divided into three parts:

- I. Background Information
- II. Summary of SIP Revision
- III. Final Action

I. Background

1. Emission Inventory

Under the CAA as amended in 1990, States have the responsibility to inventory emissions contributing to NAAQS nonattainment, to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas towards attainment. The CAA requires ozone nonattainment areas designated as moderate, serious, severe, and extreme to submit a plan within three years of 1990 to reduce VOC emissions by 15 percent within six years after 1990. The baseline level of emissions, from which the 15 percent reduction is calculated, is determined by adjusting the base year inventory to exclude biogenic emissions and to exclude certain emission reductions not creditable towards the 15 percent. The 1990 base year emissions inventory is the primary inventory from which the periodic inventory, the Reasonable Further Progress (RFP) projection inventory, and the modeling inventory are derived. Further information on these inventories and their purpose can be found in the "Emission Inventory Requirements for Ozone State Implementation Plans," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, March 1991. The base year inventory may also serve as part of statewide inventories for purposes of regional modeling in transport areas. The base year inventory plays an important role in modeling demonstrations for areas classified as moderate and above.

The air quality planning requirements for marginal to extreme ozone nonattainment areas are set out in section 182(a)-(e) of title I of the CAA.

The EPA has issued a General Preamble describing the EPA's preliminary views on how the agency intends to review SIP revisions submitted under title I of the Act, including requirements for the preparation of the 1990 base year inventory [see 57 FR 13502 (April 16, 1992) and 57 FR 18070 (April 28, 1992)]. In this action EPA will rely on the General Preamble's interpretation of the CAA, and the reader should refer to the General Preamble for a more detailed discussion of the interpretations of title I advanced in today's rule and the supporting rationale.

Those States containing ozone nonattainment areas classified as marginal to extreme are required under section 182(a)(1) of the CAA to submit a final, comprehensive, accurate, and current inventory of actual ozone season, weekday emissions from all sources within 2 years of enactment (November 15, 1992). This inventory is for calendar year 1990 and is denoted as the base year inventory. It includes both anthropogenic and biogenic sources of volatile organic compound (VOC), nitrogen oxides (NO_x), and carbon monoxide (CO). The inventory is to address actual VOC, NO_x, and CO emissions for the area during a peak ozone season, which is generally comprised of the summer months. All stationary point and area sources, as well as mobile sources within the nonattainment area, are to be included in the compilation. Available guidance for preparing emission inventories is provided in the General Preamble (57 FR 13498 (April 16, 1992)).

2. PAMS Network

On November 21, 1993, and January 14, 1994 the Rhode Island Department of Environmental Management (DEM) submitted to the EPA a SIP revision incorporating PAMS into the ambient air quality monitoring network of State or Local Air Monitoring Stations (SLAMS) and National Air Monitoring Stations (NAMS). The State will establish and maintain PAMS as part of its overall ambient air quality monitoring network.

Section 182(c)(1) of the CAA and the General Preamble (57 FR 13515) require that the EPA promulgate rules for enhanced monitoring of ozone, oxides of nitrogen (NO_x), and volatile organic compounds (VOC) no later than 18 months after the date of the enactment of the Act. These rules will provide a mechanism for obtaining more comprehensive and representative data on ozone air pollution in areas designated nonattainment and classified as serious, severe, or extreme.

The final PAMS rule was promulgated by the EPA on February 12, 1993 (58 FR 8452). Section 58.40(a) of the revised rule requires the State to submit a PAMS network description, including a schedule for implementation, to the Administrator within six months after promulgation or by August 12, 1993. Further, 58.20(f) requires the State to provide for the establishment and maintenance of a PAMS network within nine months after promulgation of the final rule or by November 12, 1993.

On November 21, 1993, the Rhode Island DEM submitted a draft PAMS network plan which included a schedule for implementation. This submittal was reviewed and approved on July 21, 1994 by the EPA and was judged to satisfy the requirements of Section 58.40(a). Since network descriptions may change annually, they are not part of the SIP as recommended by the document, "Guideline for the Implementation of the Ambient Air Monitoring Regulations, 40 CFR Part 58" EPA-450/4-78-038, OAQPS, November 1979. However, the network description is negotiated and approved during the annual review as required by 40 CFR 58.25 and 58.36, respectively, and any revision must be reviewed as provided at 40 CFR 58.46.

On November 21, 1993, and January 14, 1994 the Rhode Island DEM submitted the PAMS SIP revision to the EPA. The EPA sent the State a letter on May 17, 1994 finding the submittal administratively complete.

The Rhode Island PAMS SIP revision is intended to meet the requirements of section 182(c)(1) of the Act and to comply with the PAMS regulations, codified at 40 CFR part 58. The Rhode Island DEM held a public hearing on the PAMS SIP revision on December 15, 1993.

3. VOC Control Regulations

A. Consumer and Commercial Products

Under Section 183(e) of the CAA, the EPA is required to (1) study emissions of VOCs from consumer and commercial products; (2) list those categories of products that account for at least 80 percent of the total VOC emissions from consumer and commercial products in areas of the country that fail to meet the national air quality standards set for ground-level ozone; and (3) divide the list into four groups, and regulate one group every two years using best available controls, as defined by the CAA.

In March 1995, EPA issued a report to Congress entitled, "Study of Volatile Organic Compound Emissions from Consumer and Commercial Products,"

which evaluated the contribution of VOC emissions from consumer and commercial products on ground-level ozone levels, and established criteria and a schedule for regulating these products under the Clean Air Act. The EPA identified 24 categories of household products within the first group of products to be regulated by the EPA by no later than March 1997. Rhode Island decided to adopt rules for consumer and commercial products in advance of a federal rule to get credit for reductions from this category in its contingency plan.

On November 24, 1993, the Rhode Island DEM submitted to the EPA for comment proposed amendments to its SIP to address the contingency measure requirements. The submittal included new air pollution control regulation Number 31 entitled "Control of Volatile Organic Compounds from Consumer and Commercial Products." Rhode Island held a public hearing on December 15, 1993, for the proposed consumer and commercial products rule. EPA submitted written comments regarding the proposed regulations on December 14, 1993 and January 3, 1994. The regulation was adopted on March 11, 1994, and became effective on March 31, 1994. Because this regulation is a part of the State's contingency plan, compliance with most parts of the rule must be achieved by the date 90 days after the date that the EPA notifies the Director of the Rhode Island DEM that the State has failed to achieve a 15% reduction in VOC emissions from the 1990 emission levels.

On March 15, 1994, the Rhode Island DEM submitted a formal revision to its SIP. The SIP revision included Air Pollution Control Regulation Number 31.

The adopted rule regulates the VOC content of consumer and commercial products. The regulation applies to any person who sells, offers for sale, or manufactures for sale within Rhode Island commercial and consumer products specified in Rhode Island Air Pollution Control Regulation Number 31.

B. Architectural and Industrial Maintenance (AIM) Coatings

On November 24, 1993, the Rhode Island DEM submitted to the EPA for comment a proposed amendment to the SIP consisting of a new Air Pollution Control Regulation Number 33 entitled, "Control of Volatile Organic Compounds from Architectural and Industrial Maintenance Coatings." Rhode Island held a public hearing on December 15, 1993 for its proposed AIM coatings rule. The EPA submitted

written comments regarding the proposed regulation on December 14, 1993 and January 3, 1994. The rule was adopted on March 11, 1994, with an effective date of March 31, 1994. Because this regulation is a part of the State's contingency plan, compliance with most parts of the rule must be achieved by the date 90 days after the date that the EPA notifies the Director of the Rhode Island DEM that the State has failed to achieve a 15% reduction in VOC emissions from the 1990 emission levels.

On March 15, 1994, the Rhode Island DEM submitted formal revisions to its State Implementation Plan (SIP). The SIP revisions included Air Pollution Control Regulation Number 33, "Control of Volatile Organic Compounds from Architectural and Industrial Maintenance Coatings." The rule regulates the VOC content of AIM coatings. The regulation applies to any person who sells, offers for sale, applies, or who manufactures architectural coatings and industrial maintenance coatings specified in Air Pollution Control Regulation Number 33 for sale within the State of Rhode Island.

II. Analysis of State Submission

1. Emission Inventory

A. Procedural Background

The Act requires States to observe certain procedural requirements in developing emission inventory submissions to the EPA. Section 110(a)(2) of the Act provides that each emission inventory submitted by a State must be adopted after reasonable notice and public hearing.¹ Final approval of the inventory will not occur until the State revises the inventory to address public comments. Changes to the inventory that impact the 15 percent reduction calculation and require a revised control strategy will constitute a SIP revision. EPA created a "de minimis" exception to the public hearing requirement for minor changes. EPA defines "de minimis" for such purposes to be those in which the 15 percent reduction calculation and the associated control strategy or the maintenance plan showing, do not change. States will aggregate all such "de minimis" changes together when making the determination as to whether the change constitutes a SIP revision. The State will need to make the change through the formal SIP revision process, in conjunction with the change to the

control measure or other SIP programs.² Section 110(a)(2) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

The State of Rhode Island held a public hearing on the 1990 base year inventory for the Providence nonattainment area on December 16, 1992. The inventory was submitted to the EPA as a SIP revision on January 12, 1993, by cover letter from the Governor's designee. The inventory was reviewed by the EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR part 51, Appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The inventory was complete except for the public hearing requirement. Although Rhode Island held a public hearing on the inventory on December 16, 1992, the state did not submit a certification to EPA that a public hearing had been held. The EPA determined that for inventories that had not met the public hearing requirement, a finding of completeness would be made contingent upon the State fulfilling the public hearing requirement.³ The submittal was found to be complete contingent upon the State fulfilling the public hearing requirement, and a letter dated February 24, 1993, was forwarded to the State indicating the completeness of the submittal.

Prior to Rhode Island's submittal of a final inventory to the EPA on January 12, 1993, the State submitted a draft inventory to EPA within submittals dated June 23 and July 31, 1992. EPA reviewed the draft inventory and sent comments to the state by letter dated October 28, 1992. Rhode Island submitted a revised inventory to EPA on November 13, 1992, which addressed many of EPA's comments. EPA reviewed the November 13, 1992 submittal and provided comments to the State through the hearing process by letter dated December 18, 1992.

On February 12, 1993, RI submitted revisions to its final 1990 base year

²Memorandum from John Calcagni, Director, Air Quality Management Division, and William G. Laxton, Director, Technical Support Division, to Regional Air Division Directors, Region I-X, "Public Hearing Requirements for 1990 Base-Year Emission Inventories for Ozone and Carbon Monoxide Nonattainment Areas," September 29, 1992.

³Memorandum from John Calcagni, Director, Air Quality Management Division, to Regional Air Division Directors, Regions I-X, "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (ACT) Deadlines" October 28, 1992.

emission inventory. The EPA submitted further comments to the Rhode Island DEM on the 1990 base year inventory by letter dated November 2, 1993. These comments included comments developed by an EPA contractor's review of the Rhode Island inventory. The contractor's comments are summarized in an April 16, 1993 report. A revision to the base year inventory was submitted by the State on December 15, 1993. A second public hearing on the emission inventory was held the same day. A final revision to the base year inventory was submitted by the Rhode Island DEM to EPA on March 15, 1994. The revisions included documentation that the inventory had been subject to a public hearing.

The EPA Region I Office has compared the final Rhode Island inventory with the deficiencies noted in the various comment letters and concluded that Rhode Island has adequately addressed the issues raised by the EPA.

B. Emission Inventory Review

Section 110(k) of the CAA sets out provisions governing the EPA's review of base year emission inventory submittals in order to determine approval or disapproval under section 182 (a)(1) (see 57 FR 13565-66 (April 16, 1992)). The EPA is approving the Rhode Island ozone base year emission inventory submitted to the EPA in final form on March 15, 1994, based on the Level I, II, and III review findings. This section outlines the review procedures performed to determine if the base year emission inventory is acceptable or should be disapproved.

The Level I and II review process is used to determine that all components of the base year inventory are present. The review also evaluates the level of supporting documentation provided by the State and assesses whether the emissions were developed according to current EPA guidance.

The Level III review process is outlined here and consists of 10 points that the inventory must include. For a base year emission inventory to be acceptable it must pass all of the following acceptance criteria:

1. An approved Inventory Preparation Plan (IPP) was provided and the QA program contained in the IPP was performed and its implementation documented.

2. Adequate documentation was provided that enabled the reviewer to determine the emission estimation procedures and the data sources used to develop the inventory.

3. The point source inventory must be complete.

¹Also Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

4. Point source emissions must have been prepared or calculated according to the current EPA guidance.

5. The area source inventory must be complete.

6. The area source emissions must have been prepared or calculated according to the current EPA guidance.

7. Biogenic emissions must have been prepared according to current EPA guidance or another approved technique.

8. The method (e.g., Highway Performance Modeling System or a network transportation planning model) used to develop vehicle miles traveled (VMT) estimates must follow EPA guidance, which is detailed in the document, "Procedures for Emission Inventory Preparation, Volume IV: Mobile Sources", U.S. Environmental Protection Agency, Office of Mobile Sources and Office of Air Quality Planning and Standards, Ann Arbor, Michigan, and Research Triangle Park, North Carolina, December 1992.

9. The MOBILE model (or EMFAC model for California only) was correctly used to produce emission factors for each of the vehicle classes.

10. Non-road mobile emissions were prepared according to current EPA guidance for all of the source categories.

The base year emission inventory will be approved if it passes Levels I, II, and III of the review process. Detailed Level I and II review procedures can be found in "Quality Review Guidelines for 1990 Base Year Emission Inventories," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, July 27, 1992. Level III review procedures are specified in EPA memoranda noted in the margin.⁴

Rhode Island's inventory meets each of these ten criteria. Documentation of the EPA's evaluation, including details of the review procedure, is contained within the technical support document prepared for the Rhode Island 1990 base year inventory, which is available to the public as part of the docket supporting this action.

2. PAMS Network

The Rhode Island PAMS SIP revision will provide the State with the authority to establish and operate the PAMS sites, will secure State funds for PAMS, and will provide the EPA with the authority

to enforce the implementation of PAMS, since their implementation is required by the Act.

The criteria used to review the proposed SIP revision are derived from the PAMS regulations, codified at 40 CFR Part 58, and are included in "Guideline for the Implementation of the Ambient Air Monitoring Regulations" 40 CFR Part 58 (EPA-450/4-78-038, Office of Air Quality Planning and Standards, November 1979), the September 2, 1993, memorandum from G. T. Helms entitled, "Final Boilerplate Language for the PAMS SIP Submittal," the CAA, and the General Preamble.

The September 2, 1993, Helms memorandum stipulates that the PAMS SIP, at a minimum, must:

1. provide for monitoring of criteria pollutants, such as ozone and nitrogen dioxide and non-criteria pollutants, such as nitrogen oxides, speciated VOCs, including carbonyls, as well as meteorological parameters;

2. provide a copy of the approved (or proposed) PAMS network description, including the phase-in schedule, for public inspection during the public notice and/or comment period provided for in the SIP revision or, alternatively, provide information to the public upon request concerning the State's plans for implementing the rules;

3. make reference to the fact that PAMS will become a part of the State or local air monitoring stations (SLAMS) network;

4. provide a statement that SLAMS will employ Federal reference methods (FRM) or equivalent methods while most PAMS sampling will be conducted using methods approved by the EPA.

The Rhode Island PAMS SIP revision provides that the State will implement PAMS as required in 40 CFR Part 58, as amended February 12, 1993. The State will amend its SLAMS and its NAMS monitoring systems to include the PAMS requirements. It will develop its PAMS network design and establish monitoring sites pursuant to 40 CFR part 58 in accordance with an approved network description and as negotiated with the EPA through the 105 grant process on an annual basis. The State has begun implementing its PAMS network as required in 40 CFR Part 58.

The Rhode Island PAMS SIP revision also includes a provision to meet quality assurance requirements as contained in 40 CFR Part 58, Appendix A. The State's SIP revision also assures EPA that the State's PAMS monitors will meet monitoring methodology requirements contained in 40 CFR Part 58, Appendix C. Lastly, the State's SIP revision requires that the Rhode Island PAMS

network will be phased in as required in 40 CFR 58.44. The State's PAMS SIP submittal and the EPA's technical support document are available for viewing at the EPA Region I Office as outlined under the Addresses section of this Federal Register document. The State's PAMS SIP submittal is also available for viewing at the Rhode Island State Office as outlined under the Addresses section of this Federal Register document.

3. VOC Regulations

A. Consumer and Commercial Products

"Consumer product" is defined by Rhode Island as "A chemically formulated product sold retail or wholesale and used by household, commercial, and/or institutional consumers including, but not limited to, detergents, cleaning compounds, polishes, floor finishes, cosmetics, personal care products, disinfectants, sanitizers, and automotive specialty products." Rhode Island's rule does not regulate paints, furniture coatings or architectural coatings.

The consumer products portion of the rule contains limits that specify the maximum allowed VOC content (percent VOC by weight) for the following categories of commercial and consumer products: air fresheners, bathroom and tile cleaners, engine degreasers, floor polishes/waxes, furniture maintenance products, general purpose cleaners, glass cleaners, hair care products, nail polish remover, oven cleaners, insecticides, antiperspirants and deodorants.

The regulation also includes the following requirements: 1. the date of manufacture must be specified on product labels; 2. manufacturers must certify compliance with the rule and provide data on VOC content of the products; 3. recordkeeping requirements on the amount of product subject to the regulation that was sold in Rhode Island the previous calendar year, beginning July 1, 1994; 4. compliance demonstration by testing or through product formulation data, upon request of the EPA or the State or Rhode Island.

The EPA has determined that Regulation 31 is enforceable and will improve air quality. The EPA's evaluation is detailed in a memorandum, entitled "Technical Support Document for Rhode Island's Regulation 31, Control of Volatile Organic Compounds from Commercial and Consumer Products," which is available to the public as part of the docket supporting this action.

⁴Memorandum from J. David Mobley, Chief, Emissions Inventory Branch, to Air Branch Chiefs, Region I-X, "Final Emission Inventory Level III Acceptance Criteria," October 7, 1992; and memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, to Regional Air Division Directors, Region I-X, "Emission Inventory Issues," June 24, 1993.

B. AIM Coatings

“Architectural Coating” is defined by Rhode Island as: “Any coating which is applied to stationary structures and their appurtenances, mobile homes, pavements, or curbs.” The rule defines “Industrial Maintenance Coating” as: “a high performance coating which is formulated for the purpose of protecting against heavy abrasion, water immersion, corrosion, temperature extremes, electric potential, solvents, or other chemicals.”

Rhode Island’s rule contains limits that specify the maximum allowed VOC content (percent VOC by weight) for the following categories of architectural and industrial maintenance coatings: bituminous pavement sealer, bond breakers, concrete curing compound, dry fog coating, flat coatings, fire retardant coating, form release compound, graphic arts coating (sign

paint), high temperature industrial maintenance coating, industrial maintenance coating, lacquer, magnesite cement coating, mastic texture coating, metallic pigmented coating, multicolor coating, non-flat coatings, pretreatment wash primer, primer/sealer/undercoat, quick dry primer/sealer/undercoat, roof coating, shellac, stains, swimming pool coating, tile-like glaze, traffic marking coating, varnish, waterproofing sealer, wood preservative, and any other architectural coating not otherwise specified.

Rhode Island’s AIM rule also contains provisions requiring the date of manufacture on product labels, that the maximum VOC content be specified and a statement from the manufacturer regarding recommended thinning procedures, that records of the amount of product shipped to Rhode Island annually be maintained, and that compliance testing be performed in

accordance with EPA approved methods upon request by the State or the EPA.

The EPA has determined that Regulation 33 is enforceable and will improve air quality. The EPA’s evaluation is detailed in a memorandum, entitled “Technical Support Document for Rhode Island’s Regulation 33, Control of Volatile Organic Compounds from Architectural and Industrial Maintenance Coatings,” which is available to the public as part of the docket supporting this action.

III. Final Action

1. Emission Inventory

Rhode Island has submitted a complete inventory containing point, area, biogenic, on-road mobile, and non-road mobile source data, and accompanying documentation. Emissions from these sources are presented in the following table:

VOC

[Ozone Seasonal Emissions in Tons Per Day]

NAA	Area source emissions	Point source emissions	On-road mobile emissions	Non-road mobile emissions	Biogenic	Total emissions
Prov	60.50	25.90	65.60	32.10	72.90	257.00

NO_x

[Ozone Seasonal Emissions in Tons Per Day]

NAA	Area source emissions	Point source emissions	On-road mobile emissions	Non-road mobile emissions	Biogenic	Total emissions
Prov	3.80	14.00	57.80	25.20	NA	100.80

CO

[Ozone Seasonal Emissions in Tons Per Day]

NAA	Area source emissions	Point source emissions	On-road mobile emissions	Non-road mobile emissions	Biogenic	Total emissions
Prov	2.10	6.20	545.60	196.60	NA	750.50

Rhode Island has satisfied all of the EPA’s requirements for providing a comprehensive, accurate, and current inventory of actual ozone precursor emissions in the Providence ozone nonattainment area. The inventory is complete and approvable according to the criteria set out in the November 12, 1992 memorandum from J. David Mobley, Chief Emission Inventory Branch, TSD to G. T. Helms, Chief Ozone/Carbon Monoxide Programs Branch, AQMD. In today’s final action, the EPA is fully approving the SIP 1990 base year ozone emission inventory submitted by Rhode Island to the EPA for the Providence nonattainment area

as meeting the requirements of section 182(a)(1) of the CAA.

2. PAMS Network

In today’s action, the EPA is fully approving the revision to the Rhode Island ozone SIP for PAMS.

3. VOC Regulations

A. Commercial and Consumer Products Regulation

In today’s action, the EPA is fully approving the revision to the Rhode Island SIP establishing new Air Pollution Control Regulation Number 31, entitled, “Control of Volatile

Organic Compounds from Commercial and Consumer Products.” In the proposed rule on Rhode Island’s 15% SIP submittal published today, however, EPA disagrees with RI-DEM’s projections for the level of emission reductions Regulation Number 31 will achieve.

B. Architectural and Industrial Coatings Regulation

In today’s action, the EPA is fully approving the revision to the Rhode Island SIP establishing new Air Pollution Control Regulation Number 33 entitled, “Control of Volatile Organic Compounds from Architectural and

Industrial Maintenance Coatings." In the proposed rule on Rhode Island's 15% SIP submittal published today, however, EPA disagrees with RI-DEM's projections for the level of emission reductions Regulation Number 33 will achieve.

The EPA is publishing these actions without prior proposal because the Agency views them as noncontroversial amendments and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve these SIP revisions and is soliciting public comment on them. If adverse comments are received on this direct final rule, this action will be withdrawn before the effective date by publishing a subsequent rule that withdraws this 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 December 30, 1996.

The EPA has reviewed these requests for revision of the federally approved SIP for conformance with the provisions of the Clean Air Act Amendments. The EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, 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 (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility

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, the 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 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. section 7410 (a)(2).

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.

D. Submissions to Congress and the General Accounting Office

Under section 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).

E. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 30, 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

Incorporation by reference, Air pollution control, Carbon monoxide, Environmental protection, hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 21, 1996.

John P. DeVillars,

Regional Administrator, EPA Region I.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7641q.

Subpart OO—Rhode Island

2. Section 52.2086 is added to read as follows:

§ 52.2086 Emission inventories.

(a) The Governor's designee for the State of Rhode Island submitted the

1990 base year emission inventory for the Providence ozone nonattainment area on January 12, 1993 as a revision to the State Implementation Plan (SIP). The 1990 base year emission inventory requirement of section 182(a)(1) of the Clean Air Act, as amended in 1990, has been satisfied for this area.

(b) The inventory is for the ozone precursors which are volatile organic compounds, nitrogen oxides, and carbon monoxide. The inventory covers point, area, non-road mobile, on-road mobile, and biogenic sources.

(c) The Providence nonattainment area is classified as serious and includes the entire state of Rhode Island.

3. Section 52.2070 is amended by adding paragraph (c)(46) to read as follows:

§ 52.2070 Identification of plan.

(c) * * *

(46) A revision to the Rhode Island SIP regarding ozone monitoring. The State of Rhode Island will modify its SLAMS and its NAMS monitoring systems to include a PAMS network design and establish monitoring sites. The State's SIP revision satisfies 40 CFR 58.20(f) PAMS requirements.

(i) Incorporation by reference.

(A) Letter from the Rhode Island Department of Environmental

Management dated January 14, 1994 submitting an amendment to the Rhode Island State Implementation Plan.

(B) Letter from the Rhode Island Department of Environmental Management dated June 14, 1994 submitting an amendment to the Rhode Island State Implementation Plan.

(C) Section VII of the Rhode Island State Implementation Plan, Ambient Air Quality Monitoring.

4. Section 52.2070 is amended by adding paragraph (c)(47) to read as follows:

§ 52.2070 Identification of plan.

(c) * * *

(47) 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 revisions to the Rhode Island State Implementation Plan.

(B) The following portions of the Rules Governing the Control of Air Pollution for the State of Rhode Island, with the exception of Section 31.2.2, effective 90 days after the date that EPA notifies Rhode Island that the State has failed to achieve a 15% reduction of

VOC emission from the 1990 emission levels, in accordance with the contingency measure provisions of the Rhode Island SIP, (except for Section 31.5.2, which requires records of amount of product sold, beginning July, 1994.): Air Pollution Control Regulation No. 31, Control of Volatile Organic Compounds from Commercial and Consumer Products.

(C) The following portions of the Rules Governing the Control of Air Pollution for the State of Rhode Island, with the exception of Section 33.2.2, effective 90 days after the date that EPA notifies Rhode Island the State has failed to achieve a 15% reduction of VOC emission from the 1990 emission levels, in accordance with the contingency measure provisions of the Rhode Island SIP, (except for Section 33.5.2, which requires records of amount of product sold, beginning July, 1994.): Air Pollution Control Regulation No. 33, Control of Volatile Organic Compounds from Architectural and Industrial Maintenance Coatings.

5. In § 52.2081 Table 52.2081 is amended by adding new citations for 31 and 33 in numerical order to read as follows: § 52.2081—EPA—approved Rhode Island state regulations.

* * * * *

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. 31	Consumer and Commercial Products.	March 11, 1994	October 30, 1996	[Insert FR citation from publication date].	c (47)	VOC control reg. submitted as part of State's Contingency Plan. Section 31.2.2 not approved.
No. 33	Architectural and Industrial Maintenance Coatings.	March 11, 1994	October 30, 1996	[Insert FR citation from publication date].	c (47)	VOC control reg. submitted as part of State's Contingency Plan Section 33.2.2 not approved.

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40 CFR Parts 52 and 81

[TN 152-1-9703; FRL-5639-2]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Tennessee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On November 14, 1994, the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), submitted a maintenance plan and a request to redesignate the Middle Tennessee (Nashville) area from moderate nonattainment to attainment for ozone (O₃). Subsequently on August 9, 1995, and January 19, 1996, the State submitted supplementary information which included revised contingency measures and emission projections. The Nashville O₃ nonattainment area consists of Davidson, Rutherford,

Sumner, Williamson, and Wilson Counties. Under the Clean Air Act (CAA), designations can be changed if sufficient data are available to warrant such changes. On June 24, 1996, EPA published a document proposing approval of the maintenance plan and redesignation request. EPA received a number of comments regarding the proposed rule. Those comments and the response thereto are summarized in the supplementary information that follows. In this action, EPA is approving the State of Tennessee's submittal because it meets the maintenance plan and