

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

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

Dated: September 5, 1996.

William E. Muno,

Acting Regional Administrator.

For the reasons stated in the preamble, 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.

2. Section 52.770 is amended by adding paragraph (c)(114) to read as follows:

§ 52.770 Identification of Plan.

* * * * *

(c) * * *

(114) On November 21, 1995, and February 14, 1996, Indiana submitted regulations for wood furniture coating operations in Clark, Floyd, Lake, and Porter Counties as a revision to the State Implementation Plan for ozone.

(i) *Incorporation by reference.* 326 Indiana Administrative Code 8-11 Wood Furniture Coatings, Section 1 Applicability, Section 2 Definitions, Section 3 Emission limits, Section 4 Work practice standards, Section 5 Continuous compliance plan, Section 6 Compliance procedures and monitoring requirements, Section 7 Test procedures, Section 8 Recordkeeping requirements, Section 9 Reporting requirements, Section 10 Provisions for sources electing to use emission averaging. Adopted by the Indiana Air Pollution Control Board May 3, 1995. Filed with the Secretary of State December 5, 1996. Published at Indiana Register, Volume 19, Number 5,

February 1, 1996. Effective January 4, 1996.

[FR Doc. 96-27607 Filed 10-29-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[LA-37-1-7320, TX-75-1-73199; FRL-5629-7]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Section 172(c)(1) of the Clean Air Act (the Act) requires nonattainment areas to reduce emissions from existing sources by adopting, at a minimum, reasonably available control technology (RACT). The EPA has established 13 source categories for which RACT must be implemented and issued associated Control Technique Guidelines (CTGs) or Alternate Control Techniques (ACTs) documents. If no major sources of volatile organic compound (VOC) emissions in a particular source category exist in a nonattainment area, a State may submit a negative declaration for that category. Louisiana has submitted negative declarations for certain source categories in the Baton Rouge ozone nonattainment area. Texas has submitted negative declarations for certain source categories in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston ozone nonattainment areas. The EPA is approving these negative declarations for Louisiana and Texas.

DATES: This action is effective on December 30, 1996, unless notice is postmarked by November 29, 1996, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

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

Environmental Protection Agency,
Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700,
Dallas, Texas 75202-2733

Louisiana Department of Environmental Quality, Office of Air Quality, 7290 Bluebonnet Blvd., Baton Rouge, LA 70810

Texas Natural Resource Conservation Commission (TNRCC), Office of Air Quality, 12124 Park 35 Circle, Austin, TX 78753.

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

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

SUPPLEMENTARY INFORMATION:

I. Background

Section 172(c)(1) of the Act requires nonattainment area State Implementation Plans (SIPs) to provide, at a minimum, for such reductions in emissions from existing sources in the areas as may be obtained through the adoption of reasonably available control measures including RACT. In the notice at 44 FR 53761 (September 17, 1979) the EPA defines RACT as: "The lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economical feasibility."

Furthermore, section 182(b)(2)(A) of the Act requires that States shall submit a revision to the applicable implementation plan to include provisions to require RACT implementation for each category of VOC sources in the area covered by a CTG document issued by the Administrator after November 15, 1990. This section applies to sources only in moderate and above ozone nonattainment areas. In addition, section 182(b)(2)(C) requires that States adopt RACT for all other major sources, i.e. non-CTG major sources, in the ozone nonattainment areas by November 15, 1992. In appendix E of the General Preamble to title I (57 FR 13948), the EPA identified 11 CTGs that it intended to issue. The EPA is also specifically required to issue CTGs for aerospace coatings and shipbuilding and repair for a total of 13 CTGs. The 11 additional CTGs are listed below:

1. Synthetic organic chemical manufacturing industry (SOCMI) distillation
2. SOCMI reactors
3. Wood furniture
4. Plastic parts coating (business machines)

5. Plastic parts coating (other)
6. Offset lithography
7. Industrial wastewater
8. Autobody refinishing
9. SOCOMI batch processing
10. Volatile organic liquid storage tanks
11. Clean up solvents

Appendix E explained that States could delay adoption of measures for major sources in those 13 categories until the EPA has provided the CTG. Appendix E also explained that if the EPA failed to issue the CTG by November 15, 1993, then the required RACT submittal for major sources in the 13 categories under 182(b)(2)(C) was due November 15, 1994. The EPA issued CTGs for two source categories: SOCOMI reactors and SOCOMI distillation. For the other eleven categories, the EPA issued ACT guidelines for States to use in developing the required measures. ACT documents contain information on emissions, controls, control options, and costs that States can use in developing rules based on RACT. ACT documents present options only, and do not contain a recommendation on RACT.

As stated previously, where there are no major sources of VOC emissions in a CTG or ACT source category in a nonattainment area, the States can provide the EPA with a negative declaration instead of developing control measures. Louisiana and Texas have submitted their negative declarations for the categories where no sources were identified. Texas and Louisiana made determinations that no major sources existed in certain categories by researching the State databases. The EPA verified the States' assertions by researching its Aerometric Information Retrieval System database.

It should be noted that, subsequent to the States' submittals, the EPA issued the wood furniture CTG in May 1996 pursuant to section 182(b)(2)(A) of the Act. Unlike section 182(b)(2)(C) of the Act, which only calls for controlling major sources, a CTG issued under section 182(b)(2)(A) can call for controlling both major and minor sources if it proves to be reasonable. Therefore, Texas and Louisiana will now have to reevaluate the previously submitted negative declarations for wood furniture to determine if any of these smaller sources are located in the nonattainment areas.

II. Analysis of the Submittals

Louisiana

On December 15, 1995, Louisiana submitted a SIP revision to address all of the CTG/ACT source categories for the Baton Rouge serious ozone nonattainment area and the Calcasieu

Parish marginal ozone nonattainment area. The plan includes regulations for six of the thirteen CTG/ACT categories and negative declarations for the remaining seven categories. The seven categories are offset lithography, plastic parts coatings-business machines, plastic part coatings-others, wood furniture, aerospace coatings, autobody refinishing, and shipbuilding and repair.

In this action, the EPA is approving only the Baton Rouge Parish negative declarations as revisions to the SIP. As stated earlier, section 182(b)(2) applies to moderate and above ozone nonattainment areas. Since Calcasieu Parish is classified as marginal, the EPA is not acting upon the negative declarations for that parish at this time. In addition, the regulations included in the plan will be acted upon in a future rulemaking.

Texas

On January 10, 1996, Texas submitted a SIP revision intended in part to address RACT requirements for the 13 source categories. This submittal included the negative declarations for some categories and demonstrations that existing rules constitute RACT for other categories. In this action, the EPA is approving only the negative declarations contained in the submittal.

For the Beaumont/Port Arthur region, negative declarations were submitted for the following 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, the State submitted negative declarations for the following 11 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 the following 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.

III. Final Action

The 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, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective December 30, 1996, unless, by November 29, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent action that will withdraw the final action. All public comments received will 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.

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

IV. Administrative Requirements

A. Executive Order (E.O.) 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 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. See 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.

The SIP approvals under section 110 and subchapter I, part D of the 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 Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. See *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated 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.

The 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 preexisting requirements under State or local law, and imposes no new Federal 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. 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 this rule in today's Federal Register. This rule is

not a "major rule" as defined by 5 U.S.C. section 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, 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

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

Dated: September 30, 1996.
Jerry Clifford,
Acting Regional Administrator.

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. 7401-7671q.

Subpart T—Louisiana

2. Section 52.970 is amended by adding paragraph (c)(72) to read as follows:

§ 52.970 Identification of Plan.

* * * * *

(c) * * *
(72) Revisions to the Louisiana SIP addressing VOC RACT Negative Declarations. The Governor of Louisiana submitted the negative declarations for reasonably available control technology (RACT) for the Baton Rouge ozone nonattainment area on December 15, 1996. Section 172(c)(1) of the Clean Air Act requires nonattainment areas to adopt, at a minimum, RACT to reduce emissions from existing sources. Pursuant to section 182(b)(2) of the Act, for moderate and above ozone nonattainment areas, the EPA has identified 13 categories for such sources and developed the Control Technique Guidelines (CTGs) or Alternate Control Techniques (ACTs) documents to implement RACT at those sources. When no major volatile organic compound (VOC) sources for a CTG/

ACT category exist in a nonattainment area, a State may submit a negative declaration for that category. Louisiana's submittal included two negative declaration letters from Mr. Gustave Von Bodungen to Ms. Karen Alvarez dated April 6, 1994, and June 20, 1994, for the following source categories: offset lithography, plastic parts-business machines, plastic parts-others, wood furniture, aerospace coatings, autobody refinishing, and shipbuilding coatings/repair. This submittal satisfies section 182(b)(2) of the Clean Air Act Amendments of 1990 for these particular CTG/ACT source categories for the Baton Rouge ozone nonattainment area.

(i) Incorporation by reference. The letter dated December 15, 1995, from the Governor of Louisiana to the Regional Administrator, submitting a revision to the Louisiana SIP for VOC RACT rules, which included VOC RACT negative declarations.

(ii) Additional material. (A) The negative declaration letter dated April 16, 1994, from Mr. Gustave Von Bodungen to Ms. Karen Alvarez.

(B) The negative declaration letter dated June 20, 1994, from Mr. Gustave Von Bodungen to Ms. Karen Alvarez.

Subpart SS—Texas

3. Section 52.2270 is amended by adding paragraph (c)(103) to read as follows:

§ 52.2270 Identification of Plan.

* * * * *

(c) * * *

(103) Revisions to the Texas SIP addressing VOC RACT Negative Declarations. A revision to the Texas SIP was submitted on January 10, 1996, which included negative declarations for various categories. Section 172(c)(1) of the Clean Air Act Amendments of 1990 requires nonattainment areas to adopt, at a minimum, the reasonably available control technology (RACT) to reduce emissions from existing sources. Pursuant to section 182(b)(2) of the Act, for moderate and above ozone nonattainment areas, the EPA has identified 13 categories for such sources and developed the Control Technique Guidelines (CTGs) or Alternate Control Techniques (ACTs) documents to implement RACT at those sources. When no major volatile organic compound (VOC) sources for a source category exist in a nonattainment area, a State may submit a negative declaration for that category. Texas submitted negative declarations for the areas and source categories listed in this paragraph (c) (103). For the Beaumont/

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.

[FR Doc. 96-27604 Filed 10-29-96; 8:45 am]

BILLING CODE 6560-50-P

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.