SUPPLEMENTARY INFORMATION:

I. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the General Accounting Office (GAO). EPA recently discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated on June 24, 1996 (61 FR 32339) by operation of law, the rule did not take effect on June 24, 1996, as stated therein. Now that EPA has discovered its error, the rules being submitted to both Houses of Congress and the GAO. This document amends the effective date of the rule consistent with the provisions of the CRA.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since June 24, 1996, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2).

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA will submit 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; however, in accordance with 5 U.S.C. 808(2), this rule is effective on February 9, 1998. This rule is not a ''major rule'' as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date.

Dated: January 30, 1998.

Carol Browner,

Administrator.

[FR Doc. 98–3035 Filed 2–6–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CT7–1–5298a; A–1–FRL–5949–6]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Reasonably Available Control Technology for Volatile Organic Compounds at Sikorsky Aircraft Corporation in Stratford

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut. This revision establishes and requires reasonably available control technology (RACT) for volatile organic compound (VOC) emissions which are not subject to control technology guideline-based regulations (i.e., non-CTG VOC emission sources) at Sikorsky Aircraft Corporation in Stratford, Connecticut. The intended effect of this action is to approve a source-specific RACT determination made by the State in accordance with the Clean Air Act. This action is being taken in accordance with section 110 of the Clean Air Act.

DATES: This action will become effective April 10, 1998, unless EPA recieves adverse or critical comments by March 11, 1998. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203–2211. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., (LE–131), Washington, D.C. 20460; and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Steven A. Rapp, Environmental Engineer, Air Quality Planning Unit (CAQ), U.S. EPA, Region I, JFK Federal Building, Boston, MA 02203–2211; (617) 565–2773; or by E-mail at: Rapp.Steve@EPAMAIL.EPA.GOV.

SUPPLEMENTARY INFORMATION:

I. Order No. 8010

On March 21, 1984, EPA approved subsection 22a–174–20(ee) of Connecticut's regulations as part of Connecticut's 1982 Ozone Attainment Plan. This regulation requires the Connecticut Department of Environmental Protection to determine and impose RACT on all stationary sources with potential VOC emissions of one hundred tons per year (TPY) or more that are not already subject to Connecticut's regulations developed pursuant to the Control Techniques Guideline (CTG) documents. The total potential VOC emissions from Sikorsky's otherwise unregulated processes are approximately 504 TPY.

On August 26, 1986, the Connecticut DEP sent draft State Order No. 8010 to EPA as a RACT determination for Sikorsky in Stratford. EPA reviewed this draft RACT determination, and provided comments on September 23, 1986. On December 5, 1986, the DEP submitted proposed State Order No. 8010 incorporating EPA's comments, as a revision to Connecticut's State Implementation Plan for parallel-processing. EPA submitted additional comments on January 16, 1987 during the State's public comment period. The

DEP conducted a public hearing on January 22, 1987, at which time Sikorsky submitted comments on the proposed State Order. To simplify EPA's rulemaking, the State resubmitted a revised proposed State Order which contains the necessary changes to address all of the comments made by EPA and others during the public comment period. As mentioned above, the notice of proposed rulemaking (NPR) was published for public comment on June 22, 1988 (53 FR 23416). While no formal public comments were submitted on the NPR, the State Order was appealed by Sikorsky and a formal hearing regarding the appeal was held on February 14, 1989.

On March 27, 1990, the State of Connecticut formally submitted a RACT determination for Sikorsky in Stratford as a SIP revision. This RACT determination package addressed the findings of the hearing officer as a result of the appeal. At that time, no substantive changes were made to the State Order as a result of the appeal. Order No. 8010 requires Sikorsky to achieve compliance with Connecticut's federally-approved Solvent Metal Cleaning regulation for four degreasers which were previously exempt from this rule. Secondly, the State Order requires Sikorsky to install a carbon adsorption/solvent recovery system which meets an overall VOC removal efficiency of 85 percent on a flowcoater which coats helicopter parts. Finally, the Order No. 8010 requires Sikorsky to meet and maintain emission limitations in terms of pounds of VOC per gallon of coating (minus water) for eight spray booths which coat helicopters and helicopter parts, and requires Sikorsky to maintain the VOC emissions from each of the three other spray booths at 40 pounds of VOC per day or less.

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAAA) were enacted. Section 182(a)(2)(A) of the CAAA required that all States that were required to make corrections to RACT regulations, needed to revise their regulations to make them consistent with EPA guidance by May 15, 1991. Connecticut began its efforts to revise its regulations well before enactment, and on October 18, 1991, EPA published a final rule approving Connecticut's revised VOC regulations as part of the SIP. The revised Connecticut regulations included changes to the regulations which affect this Sikorsky RACT determination. In fact, had Connecticut's regulations been consistent with EPA guidance at the time this Sikorsky ''non-CTG'' RACT determination was being developed, certain operations at this source would have been subject to Connecticut's regulations developed pursuant to CTGs. For this reason, Connecticut's revised requirements in subsections 22a–174–20(l), ''Metal cleaning'' and 22a–174–20(s), ''Miscellaneous metal parts and products,'' now supersede portions of this State Order.

Where this Sikorsky RACT determination and subsection 22a–174–20(l) and 20(s) overlap, the more stringent requirements must be met. For example, provision 7 of the State Order allows a black polyurethane topcoat in paint shop #1, to meet an emission limit potentially higher than that required by subsection 22a–174–20(s). In this case, the requirements of subsection 22a–174–20(s) would apply. Similarly, booths which individually emitted less than 40 pounds per day were exempted from control under the State Order. Subdivision 22a–174–20(s) now requires that any facility that has actual facility-wide emissions greater than 15 pounds per day from miscellaneous metal parts coating, is subject to the emission limitations in subdivision 22a–174–20(s)(3). Therefore, since Sikorsky exceeds this threshold, the booths at Sikorsky coating miscellaneous metal parts would be subject to the requirements of subsection 22a–174–20(s).

Additionally, section 182(b)(2)(C) of the Clean Air Act, as amended, requires that the State define RACT for all major stationary of VOCs that are located in the nonattainment area and for which a CTG has not been issued. Therefore, this RACT determination is still necessary because not all of the VOC emitting operations at Sikorsky are subject to either 22a–174–20(l) and 22a–174–20(s). This RACT determination defines and establishes RACT for those otherwise unregulated operations, as required by section 182(b)(2)(C) of the amended Clean Air Act.

II. Technical Addenda

Subsequent to the finalization of Order No. 8010 and the publication of the proposed rulemaking notice to incorporate the order into the Connecticut SIP, on August 31, 1991, Sikorsky submitted a request to Connecticut for the approval of an alternative emission reduction plan (AERP), as allowed by section 22a–174–20(cc). The AERP involved the ''banking'' of VOC credit resulting from the reformulation of certain coatings and the shutdown of degreasing equipment, for use in complying with the VOC emission limitations in Order No. 8010. On April 3 and 8, 1992, Sikorsky submitted revised versions of the AERP request.

Additionally, on March 1, 1993, Sikorsky submitted an analysis of its coating operations. This analysis showed that several coatings were not able to comply with the limits of Order No. 8010. EPA met with Connecticut and Sikorsky during the Spring of 1993 to discuss the analysis as well as the potential for using an emissions average for compliance with the limits in Order No. 8010. At that time, EPA and Connecticut also discussed the possibility of further defining the source specific coating limits, based on the limits promulgated in several air quality management districts in California and EPA's preliminary drafts of the CTG for aerospace coating operations.

Based on that meeting, Sikorsky revised the draft AERP which was then submitted to Connecticut on May 6, 1994. During 1994 and 1995, EPA worked with Connecticut to draft two technical addenda to Order 8010: Addendum A, which sets source specific coating limits for a number of specialty coatings; and, Addendum B which sets the conditions for the use of emissions averaging as a compliance method at the Stratford facility. On October 6, 1995, Connecticut proposed the 2 addenda for public comment and on November 13, 1995, a public hearing was held.

On February 16, 1996, Connecticut submitted the two final addenda, with Order No. 8010, as a revision to the SIP. On July 3, 1996, EPA deemed the package administratively and technically complete.

This action will have a beneficial effect on air quality. This action is being taken under section 110 of the Clean Air Act.

Issues

One issue associated with our approval is that Order No. 8010 and the related Connecticut air regulations, particularly subsections 22a–174–20(l) and 22a–174–20(s), contain overlapping requirements that Sikorsky must meet to be in compliance with RACT in Connecticut. Order No. 8010 will insure compliance with that State order only. Independent requirements found in subsections 22a–174–20(l) and 22a–174–20(s), Connecticut's metal cleaning and miscellaneous metal parts and products surface coating regulations, also apply to some of Sikorsky's operations. Therefore, where more than one requirement or emission limit applies, Sikorsky will need to meet the more stringent requirement or limit.

Another issue associated with this rulemaking is related to the temporary

use of banked perchloroethylene (perc) emissions in the emissions average allowed by Addendum B of Order No. 8010. EPA excluded perc from the definition of VOC on February 7, 1996 (61 FR 4588). However, in the notice, EPA acknowledged that where perc reductions had been banked as VOC credits, the exclusion of perc from the definition of VOC raised questions as to the future value of those credits. In that notice, EPA deferred the decision of whether banked perc credits could be used in future emission trading transactions, leaving the decision to be worked out between EPA and individual States.

In Connecticut, EPA believes that there are a number of reasons that the use of these credits at Sikorsky's Stratford facility is merited. First, the perc reductions in Addendum B were the result of a voluntary phase out of a number of solvent degreasers at the Stratford facility, as part of a pollution prevention effort which began in 1987. Sikorsky applied to bank these credits in 1991 and again in 1992, prior to EPA's proposed exclusion of perc from the definition of VOC. Second, the emissions average, or bubble, has been designed to limit both the timeframe and quantity of the perc reductions as VOC credits. In addition to the 20% reduction of the daily allowable emissions required by the applicable guidance at the time Sikorsky applied, EPA's Emission Trading Policy Statement of December 1986, a 50% discount has been applied to the VOC credits from perc at Sikorsky. Additionally, Addendum B only allows the discounted perc credits to be used in the bubble until January 1, 2000. Third, since Addendum B limits the potential use of VOC credits from perc in this bubble to the lowest of 338.7 pounds per day, 2032.2 pounds per week, and 3848 pounds per year (1.92 tons per year), such use will not interfere with RFP. And finally, since the use of the VOC credits from perc is not authorized beyond 1999, the use of the perc credits will not interfere with any future attainment plan.

A final issue with Order No. 8010 is the ''Notice of Noncompliance'' sections of each Addendum to the order. This provision requires Sikorsky to report to DEP any failure to comply with the requirements of the order and to propose dates by which Sikorsky will come into compliance. These sections end with the following sentence:

> Notification by Respondent [Sikorsky] shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay *unless specifically so stated by the Commissioner in writing.*

Addendum A, section 6 and Addendum B, section 5, respectively (emphasis added). Any written approval of noncompliance by DEP pursuant to the terms of this order shall operate solely as a matter of state law. Such approval cannot revise the SIP requirements approved in this order (see 42 U.S.C. 7410(i)), shall not be binding on EPA, and would not preclude EPA or citizens from enforcing the requirements of this order as part of the SIP pursuant to the federal Clean Air Act.

Final Action

EPA review of the submittal for Sikorsky Aircraft Corporation, including the State Order No. 8010, Addendum A, and Addendum B, indicates that Connecticut has sufficiently defined VOC RACT for the non-CTG VOC emission sources at the Stratford facility. Although on June 22, 1988 (53 FR 23416), EPA published a Notice of Proposed Rulemaking (NPR) proposing to approve Order No. 8010 for this facility, Connecticut subsequently added two technical addenda to the order. Therefore, rather than finalizing the earlier proposal for Order No. 8010 and separately taking action on the two addenda, EPA is approving State Order No. 8010, Addendum A, and Addendum B, into the SIP at this time.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 10, 1998 unless adverse or critical comments are received by March 11, 1998.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on April 10, 1998.

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

III. 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 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 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 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, the Administrator certifies 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 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 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

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. 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 April 10, 1998. 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).) EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects in 40 CFR Part 52

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

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

Dated: December 31, 1997.

Patricia L. Meany,

Acting Regional Administrator, Region I.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart H—Connecticut

2. Section 52.370 is amended by adding paragraph (c)(60) to read as follows:

§ 52.370 Identification of plan.

* * * * * *

(c) * * *

(60) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on February 16, 1996.

(i) Incorporation by reference.

(A) Letter from the Connecticut Department of Environmental Protection dated February 16, 1996, submitting a revision to the Connecticut State Implementation Plan.

(B) State Order No. 8010 dated October 25, 1989 for Sikorsky Aircraft Corporation, effective on January 29, 1990, as well as Addendum A and Addendum B to Order No. 8010, effective on February 7, 1996 and September 29, 1995, respectively. The State order and two addenda define and impose RACT on certain VOC emissions at Sikorsky Aircraft Corporation in Stratford, Connecticut

* * * * *

3. In § 52.385, Table 52.385 is amended by adding a new entry to existing state citation for Section 22a-174–20, ''Control of Organic Compound Emissions'' to read as follows:

§ 52.385 EPA—approved Connecticut regulations.

* * * * *

TABLE 52.385.—EPA-APPROVED REGULATIONS

Connecticut State citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comments/description
		Date adopted by State	Date approved by EPA			
*	*	*	*	*	*	*
22a–174–20	Control of organic compound emissions.	1/29/90, 9/29/95, & 2/7/96.	2/9/98	63 FR 6484	(c)(60)	VOC RACT for Sikorsky Aircraft Corporation in Stratford.
*	*	*	*	*	*	*

[FR Doc. 98–3025 Filed 2–6–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ017–0008; FRL–5957–6]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Maricopa County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of a revision to the Arizona State Implementation Plan (SIP) proposed in the **Federal Register** on December 17, 1997. This final action will incorporate this rule into the federally approved SIP. The intended effect of this action is to regulate volatile organic compound (VOC) emissions according to the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rule controls VOC emissions from various surface coating operations using primarily metal and plastic