

## Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

## Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34)g, of Commandant Instruction M16475.IC, this rule is categorically excluded from further environmental documentation.

## List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

## PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 1605; 49 CFR 1.46.

2. A new § 165.T08-029 is added to read as follows:

### § 165.T08-029 Safety Zone: Arkansas River Mile 290 to 293.

(a) *Location.* The following area is a safety zone: the waters of the Arkansas River between miles 290.0 and 293.0. The zone is needed because of a bridge exercise being held by the United States Army.

(b) *Effective date.* This section is effective on July 25, 2000, from 8 a.m. (CST) until 4 p.m. (CST) unless sooner terminated by the Captain of the Port.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Memphis.

Dated: May 19, 2000.

**Michael S. Gardiner,**

*Lieutenant Commander, U.S. Coast Guard, Acting Captain of the Port.*

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**BILLING CODE 4910-15-U**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[RI-042-01-6990a; A-1-FRL-6727-9]

### Approval and Promulgation of Air Quality Implementation Plans; New Hampshire, Rhode Island, and Vermont; Aerospace Negative Declarations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving negative declarations submitted by the States of New Hampshire, Rhode Island, and Vermont for aerospace coating operations. This action is being taken in accordance with the Clean Air Act (CAA).

**DATES:** This direct final rule is effective on September 8, 2000 without further notice, unless EPA receives adverse comment by August 9, 2000. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA New England, One Congress Street, Suite 1100, Boston, MA 02114-2023. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England, One Congress Street, 11th floor, Boston, MA, 02114-2023. Copies of New Hampshire's submittal are also available at Air Resources Division, Department of Environmental Services, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095. Copies of Rhode Island's submittal are also available at Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, RI 02908-5767. Copies of Vermont's submittal are also available Air Pollution Control Division, Agency of Natural Resources, Building 3 South, 103 South Main Street, Waterbury, VT 05676.

**FOR FURTHER INFORMATION CONTACT:** Anne E. Arnold, (617) 918-1047.

**SUPPLEMENTARY INFORMATION:** This section is organized as follows:

What action is EPA taking?

What are the relevant CAA requirements? What is a control techniques guideline (CTG)?

What is the aerospace CTG?

How have New Hampshire, Rhode Island, and Vermont addressed the CAA requirements for aerospace coating operations?

What is EPA's response to the states' submittals?

### What Action Is EPA Taking?

EPA is approving negative declarations for aerospace coating operations submitted by New Hampshire on September 11, 1998, by Rhode Island on March 28, 2000, and by Vermont on July 28, 1998. EPA is also correcting Table (e) in 40 CFR 52.2070 to include Rhode Island's negative declaration for the synthetic organic chemical manufacturing industry (SOCMI) distillation and reactor processes control techniques guideline categories. EPA approved the SOCMI distillation and reactor processes negative declaration for Rhode Island on December 2, 1999 (64 FR 67495) but neglected to add the appropriate entry to Table (e) at that time.

### What Are the Relevant CAA Requirements?

Sections 182(b)(2) and 184(b) of the Clean Air Act contain the requirements relevant to today's action. Section 182(b)(2) requires States to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing Control Techniques Guideline (CTG)—*i.e.*, a CTG issued prior to the enactment of the 1990 amendments to the CAA; (2) RACT for sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG, *i.e.*, non-CTG sources.

Pursuant to the CAA Amendments of 1990, all of Rhode Island and portions of New Hampshire were classified as serious nonattainment for ozone. 56 FR 56694 (Nov. 6, 1991). These areas were, thus, subject to the section 182(b)(2) RACT requirement.

In addition, the States of New Hampshire, Rhode Island, and Vermont are located in the Northeast Ozone Transport Region (OTR). These states are, therefore, subject to section 184(b) of the amended CAA. Section 184(b) requires that RACT be implemented in the entire state for all VOC sources covered by a CTG issued before or after the enactment of the CAA Amendments of 1990 and for all major VOC sources (defined as 50 tons per year for sources in the OTR).

### What Is a Control Techniques Guideline (CTG)?

A CTG is a document issued by EPA which establishes a "presumptive norm" for RACT for a specific VOC source category. Under the pre-amended CAA, EPA issued CTG documents for 29 categories of VOC sources. Section 183 of the amended CAA requires that EPA issue 13 new CTGs. Appendix E of the General Preamble of Title I (57 FR 18077) lists the categories for which EPA plans to issue new CTGs.

### What Is the Aerospace CTG?

EPA issued a CTG for aerospace coating operations on March 27, 1998 (63 FR 15006). This CTG applies to aerospace coating operations with the potential to emit 25 tons of VOC or more per year.

### How Have New Hampshire, Rhode Island, and Vermont Addressed the CAA Requirements for Aerospace Coating Operations?

In response to the CAA requirement to adopt RACT for all sources covered by a new CTG, New Hampshire, Rhode Island, and Vermont submitted negative declarations to EPA for the aerospace coating operations CTG category. Through the negative declaration, New Hampshire, Rhode Island, and Vermont are asserting that there are no sources within their respective states that would be subject to a rule for aerospace coating operations.

### What Is EPA's Response to the States' Submittals?

EPA is approving these negative declaration submittals as meeting the CAA section 182(b)(2) and section 184(b) requirements, as applicable, for this source category. However, if evidence is submitted by August 9, 2000 that there are existing sources within the States of New Hampshire, Rhode Island, or Vermont that, for purposes of meeting the RACT requirements, would be subject to a rule for aerospace coating operations, if developed, such comments would be considered adverse and EPA would withdraw its approval action on that State's negative declaration.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This action will be effective September 8, 2000 without further notice unless the

Agency receives adverse comments by August 9, 2000.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 8, 2000 and no further action will be taken on the proposed rule.

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.

### Final Action

EPA is approving negative declarations submitted by New Hampshire, Rhode Island, and Vermont for aerospace coating operations. EPA is also correcting Table (e) in 40 CFR 52.2070 to include Rhode Island's negative declaration for the SOCM I distillation and reactor processes CTG categories.

### Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will

not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the

Congress and to the Comptroller General of the United States. 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 United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). 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 September 8, 2000. Interested parties should 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. 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, Ozone.

Dated: June 12, 2000.

**Mindy S. Lubber**,  
*Regional Administrator, EPA New England.*

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 EE—New Hampshire

2. Section 52.1520 is amended by adding paragraph (c)(67) to read as follows:

#### RHODE ISLAND NON REGULATORY

#### § 52.1520 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(67) Revisions to the State Implementation Plan submitted by the New Hampshire Air Resources Division on September 11, 1998.

(i) Additional materials.

(A) Letter from the New Hampshire Department of Environmental Services dated September 11, 1998 stating a negative declaration for the aerospace coating operations Control Techniques Guideline category.

#### Subpart OO—Rhode Island

3. Section 52.2070 is amended as follows:

In paragraph (e), the table is amended by adding at the end of the table new citations for two negative declarations to read as follows:

#### § 52.2070 Identification of plan.

\* \* \* \* \*

(e) Non Regulatory.

Name of non regulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/effective date	EPA approved date	Explanations
* * *	* * *	* * *	* * *	*
Negative Declaration for Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation and Reactor Processes Control Techniques Guideline Categories.	Statewide .....	Submitted 4/5/95 .....	12/2/99, 64 FR 67495 .....	
Negative Declaration for Aerospace Coating Operations Control Techniques Guideline Category.	Statewide .....	Submitted 3/28/00 .....	July 10, 2000 [Insert FR citation from published date].	

#### Subpart UU—Vermont

4. Section 52.2370 is amended by adding paragraph (c)(26) to read as follows:

#### § 52.2370 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(26) Revisions to the State Implementation Plan submitted by the Vermont Air Pollution Control Division on July 28, 1998.

(i) Additional materials.

(A) Letter from the Vermont Air Pollution Control Division dated July 28, 1998 stating a negative declaration for the aerospace coating operations Control Techniques Guideline category.

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 60, 63, 261, and 270

[FRL-6720-9]

RIN 2050-AE01

#### NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; technical correction.

**SUMMARY:** On September 30, 1999 the Environmental Protection Agency (EPA) published the Hazardous Waste Combustors NESHAP Final Rule. On November 19, 1999 EPA published the first technical correction of that rule to address a time sensitive situation. Today's rule corrects numerous typographical errors and clarifies

several issues from the September 30, 1999 rule, one issue from a closely-related June 19, 1998 rule, and makes one adjustment to the November 19, 1999 technical correction. These corrections and clarifications will make the NESHAP final rule easier to understand and implement.

**DATES:** This rule is effective on July 10, 2000.

**ADDRESSES:** The public may obtain a copy of this technical correction at the RCRA Information Center (RIC), located at Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the RCRA Hotline at (800) 424-9346 (toll free) or (703) 412-9812 in the Washington, D.C. metropolitan area. For information on this rule contact David Hockey (5302W), Office of Solid Waste, Ariel Rios