

## EPA APPROVED GEORGIA REGULATIONS—Continued

| State citation                 | Title/subject  | State effective date | EPA approval date | Explanation |
|--------------------------------|--|----------------------|-------------------|-------------|
| *<br>391-3-1-.02(2)(c) .....   | *<br>Incinerators .....  | *<br>6/15/98         | *<br>12/2/99      | *<br>*      |
| *<br>391-3-1-.02(2)(fff) ..... | *<br>Particulate Matter<br>Emissions from Yarn<br>Spinning Operations.             | *<br>6/15/98         | *<br>12/2/99      | *<br>*      |
| *<br>391-3-1-.02(2)(hhh) ...   | *<br>Wood Furniture Fin-<br>ishing and Cleaning<br>Operations.                     | *<br>6/15/98         | *<br>12/2/99      | *<br>*      |
| *<br>391-3-1-.02(2)(jjj) ..... | *<br>NO <sub>x</sub> Emissions from<br>Electric Utility Steam<br>Generating Units. | *<br>6/15/98         | *<br>12/2/99      | *<br>*      |
| *<br>391-3-1-.02(3) .....      | *<br>Sampling .....  | *<br>6/15/98         | *<br>12/2/99      | *<br>*      |
| *<br>391-3-1-.02(6) .....      | *<br>Source Monitoring .....   | *<br>6/15/98         | *<br>12/2/99      | *<br>*      |
| *<br>391-3-1-.02(7) .....      | *<br>Prevention of Signifi-<br>cant Deterioration of<br>Air Quality.               | *<br>6/15/98         | *<br>12/2/99      | *<br>*      |
| *<br>391-3-1-.02(11) .....     | *<br>Compliance Assurance<br>Monitoring.   | *<br>6/15/98         | *<br>12/2/99      | *<br>*      |
| *<br>391-3-1-.03 .....         | *<br>Permits .....   | *<br>6/15/98         | *<br>12/2/99      | *<br>*      |
| *<br>391-3-22 .....            | *<br>Clean Fueled Fleets ....  | *<br>6/15/98         | *<br>12/2/99      | *<br>*      |
| *<br>391-3-22 .....            | *<br>Clean Fueled Fleets ....  | *<br>6/15/98         | *<br>12/2/99      | *<br>*      |

[FR Doc. 99-29445 Filed 12-1-99; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[RI-028-01-6974a; A-1-FRL-6483-8]

### Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; VOC Regulations and RACT Determinations

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving several State Implementation Plan (SIP) revisions submitted by the State of Rhode Island. These revisions establish requirements for certain facilities which emit volatile organic compounds (VOCs). The intended effect of this action is to approve these revisions into the Rhode Island SIP. EPA is taking this action in accordance with the Clean Air Act (CAA).

**DATES:** This direct final rule is effective on January 31, 2000 without further notice, unless EPA receives adverse

comment by January 3, 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 Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, 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, Region I, One Congress Street, 11th floor, Boston, MA and the Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908-5767.

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

**SUPPLEMENTARY INFORMATION:** This notice discusses several SIP revisions submitted by the Rhode Island Department of Environmental Management (DEM). These SIP submittals contain VOC regulations for

certain categories of VOC sources and VOC reasonably available control technology (RACT) determinations for several specific facilities.

### I. Summary of SIP Revision

On March 26, 1996, DEM submitted to EPA as a SIP revision newly adopted Regulations No. 35 "Control of Volatile Organic Compounds and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations" and No. 36 "Control of Emissions from Organic Solvent Cleaning," as well as revised Regulations No. 9, 14, 15, 19, 21, 25, 26, 30, 31, 32, and 33. Also, on June 17, 1996, DEM submitted revisions to Regulation No. 35. In addition, on September 17, 1996, April 17, 1997, and November 4, 1997, Rhode Island submitted VOC RACT determinations for the following facilities: Quality Spray and Stenciling, Guild Music, Victory Finishing Technologies, CCL Custom Manufacturing, and Cranston Print Works. Finally, on October 27, 1999, DEM submitted addenda clarifying the RACT determinations for Quality Spray and Stenciling and CCL Custom Manufacturing.

## Background

On November 15, 1990 amendments to the Clean Air Act (CAA) were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401 et seq. Pursuant to the amended CAA all of Rhode Island was classified as serious nonattainment for ozone. 56 FR 56694 (Nov. 6, 1991).

Section 182(b)(2) of the amended Act 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. In a serious ozone nonattainment area, a source which has the potential to emit 50 tons of VOC or more per year is considered a major source.

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. Rhode Island previously adopted, and EPA approved, regulations developed by the state pursuant to the pre-1990 CTGs, the most recent approval of which was on October 18, 1994 (59 FR 52427). Today’s document addresses minor revisions to those previously adopted regulations, as well as new alternative VOC RACT determinations, adopted by Rhode Island pursuant to the pre-1990 CTGs. These alternative VOC RACT determination’s essentially relax the generally applicable RACT emission limits for specific sources that have demonstrated that it is unreasonable to require them to comply with those limits. In addition, today’s document also addresses requirements adopted by Rhode Island pursuant to the non-CTG RACT and new (*i.e.*, post-1990) CTG requirements of the CAA.

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. On November 15, 1993, EPA issued a CTG for Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations and Reactor Processes. Also, on August 27, 1996, EPA issued a CTG for shipbuilding and repair operations and on May 26, 1996, EPA issued a CTG for wood furniture finishing operations. Furthermore, on

March 27, 1998, EPA issued a CTG for aerospace coating operations. CTGs for the remaining appendix E categories have not yet been issued.

### *EPA’s Evaluation of Rhode Island’s Submittals*

#### A. New CTGs

In response to the CAA section 182(b)(2)(A) requirement to adopt RACT for all sources covered by a new CTG, on April 5, 1995, Rhode Island submitted a negative declaration for the SOCMI Distillation Operations and SOCMI Reactor Processes CTG. Through this negative declaration, the State of Rhode Island is asserting that there are no sources within the State that would be subject to a rule for these source categories. EPA is approving this negative declaration as meeting the VOC RACT requirement for the SOCMI Distillation Operations and Reactor Processes source categories.<sup>1</sup>

In addition, Rhode Island has adopted requirements for wood furniture finishing operations pursuant to EPA’s new CTG for this source category. These requirements are discussed below in the Section entitled “Revised VOC regulations.” Rhode Island has not yet addressed the new shipbuilding or aerospace CTGs but will need to do so in order to fully meet its CAA obligations.

#### B. Major Non-CTG Sources

In response to section 182(b)(2)(C) of the CAA, Rhode Island amended its Regulation No. 15 “Control of Organic Solvent Emissions,” which previously applied to sources with the potential to emit 100 tons of VOC or more per year, to include provisions which apply to sources with the potential to emit 50 tons of VOC or more per year. The new provisions allow subject sources three options. Specifically, sources are required to: (1) install and operate a control system which achieves an overall emission reduction efficiency of 85 percent; or (2) reduce VOC use such that daily VOC emissions do not exceed 20 percent of the facility’s 1990 VOC emissions calculated on a mass of VOC per unit of production basis or a mass of VOC per mass of solids applied basis for surface coating operations. The third option in the rule describes a process by which RACT can be defined, but does not explicitly define RACT for each source to which this option applies.

On July 7, 1995 (60 FR 35361), EPA proposed a limited approval/limited disapproval of Rhode Island’s revised

Regulation No. 15 “Control of Organic Solvent Emissions.”<sup>2</sup> EPA’s notice of proposed rulemaking (NPR) stated that in order to receive full approval Rhode Island DEM must submit, and EPA must approve, RACT determinations for all sources complying with Regulation No. 15 through the third option. At the time of EPA’s NPR, DEM had identified the following three sources for which single source VOC RACT determinations would be conducted: Cranston Print Works, CCL Custom Manufacturing, and Hoechst Celanese. As a result of recent inspection activity, DEM has discovered an additional source, Original Bradford Soap Works, which is also subject to Regulation No. 15. Since this facility is complying with the regulation through the third option, the consent agreement for this facility must also be submitted to EPA as a SIP revision.

On September 17, 1996, and April 17, 1997, Rhode Island submitted consent agreements for Cranston Print Works and CCL Custom Manufacturing, respectively, to EPA as a SIP revision. On October 27, 1999, DEM submitted an addendum to the agreement for CCL Custom Manufacturing. Cranston Print Works is a textile processing facility. Generally, the agreement requires Cranston Print Works to limit the VOC content of its print paste and finish formulations and to operate scrubbers on its acid production ager and acid patch ager. CCL Custom Manufacturing is a contract manufacturer of personal care and household products packaged in aerosol and solid forms. Generally, CCL’s agreement requires CCL to use an aerosol filling technique that minimizes VOC emissions or to collect and burn VOC emissions that escape from the alternative filling process. The consent agreements submitted for Cranston Print Works and CCL Custom Manufacturing are found to be approvable. The consent agreements and EPA’s evaluation are detailed in a memorandum, dated November 5, 1999, entitled “Technical Support Document—Rhode Island—VOC Rules and RACT Determinations.” Copies of that document are available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this document.

The necessary consent agreements for Hoechst Celanese and Original Bradford Soap Works, however, have not yet been submitted to EPA. Regulation No. 15, therefore, does not fully satisfy the requirements of section 182(b)(2)(C) of the CAA. In order for Regulation No. 15 to be fully approvable, the state must submit, and EPA must approve, the

<sup>1</sup> On July 5, 1995 (60 FR 35361), EPA proposed approval of this negative declaration. No comments were received on this proposal.

<sup>2</sup> No comments were received on EPA’s July 7, 1995 proposal.

consent agreements for Hoechst Celanese and Original Bradford Soap Works. Therefore, EPA is granting a limited approval of Regulation No. 15 in order to strengthen the Rhode Island SIP.

Also in response to section 182(b)(2)(C) of the CAA, Rhode Island revised the applicability threshold in its previously EPA-approved Regulation No. 21 "Control of Volatile Organic Compound Emissions from Printing Operations" from the potential to emit 100 tons of VOC per year to the potential to emit 50 tons of VOC per year. EPA's July 7, 1995 NPR proposed a full approval of Rhode Island's Regulation No. 21 revisions. Since the time of EPA's NPR, the state has adopted revisions to all of its VOC regulations, including Regulation No. 21. These subsequent revisions are

discussed in the section below entitled "Revised VOC Regulations."

C. Alternative VOC RACT Determinations

On September 17, 1996, DEM submitted alternative VOC RACT determinations for the following facilities: Quality Spraying and Stenciling, Guild Music, and Victory Finishing Technologies. In addition, on November 4, 1997, DEM submitted a revised consent agreement for Quality Spray and Stenciling and an addendum to that agreement on October 27, 1999. These facilities are subject to Rhode Island's EPA-approved Regulation No. 19 "Control of Volatile Organic Compounds from Surface Coating Operations" and have requested that alternative VOC RACT requirements be established for their specific facility. Regulation No. 19 allows alternative emissions limitations to be established

on a case-by-case basis if sufficient technical and economic justification supporting the alternative limits is provided. These alternative requirements must be approved by Rhode Island DEM and EPA, based on a determination that it is technically or economically infeasible for the particular source to meet the requirements of Regulation No. 19. The type of operations and the VOC reduction strategies at each alternative VOC RACT facility are listed in the Table below. All of the submitted alternative RACT determinations are found to be approvable. The specific requirements for these sources and EPA's evaluation of these requirements are summarized in the accompanying Technical Support Document, which is available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this document.

| Facility   | Source, type and VOC reduction strategy   |
|--|---|
| Quality Spray and Stenciling of Providence, RI .....   | Coater of miscellaneous metal parts, wood products, and plastic parts; alternate limits on VOC content of coating and use of electrostatic spray guns.      |
| Guild Music of Westerly, RI .....                      | Manufacturers handmade guitars; alternate limits on VOC content of coatings and work practice plan addressing leaks, solvent accounting, and spray gun use. |
| Victory Finishing Technologies of Providence, RI ..... | Coater of miscellaneous metal parts; alternate limits on VOC content of coatings.   |

D. Revised VOC Regulations

Rhode Island's March 26, 1996 SIP submittal includes revised Regulations No. 9, 14, 15, 19, 21, 25, 26, 30, 31, 32, and 33. In each of these regulations, the definition of the term "volatile organic compound" has been revised. Acetone, parachlorobenzotrifluoride, and volatile methyl siloxanes are now included on the list of compounds that are exempted from the definition of VOC because of their negligible photochemical reactivity. Rhode Island's revisions to its VOC definition are consistent with revisions EPA has made to its definition of VOC. EPA's revisions were promulgated on October 5, 1994 (59 FR 50693) and June 16, 1995 (60 FR 31633) and are codified at 40 CFR 51.100(s). Rhode Island's VOC definition does not, however, reflect more recent revisions to EPA's VOC definition which were promulgated subsequent to Rhode Island's March 26, 1996 SIP submittal. EPA promulgated these additional revisions to its VOC definition on October 8, 1996 (61 FR 52848), August 25, 1997 (62 FR 44900), and April 4, 1998 (63 FR 17331).

Rhode Island's March 26, 1996 SIP submittal also includes newly adopted Regulation No. 36 "Control of Emissions

from Organic Solvent Cleaning." Emissions from solvent cleaning were previously regulated by Rhode Island under Regulation No. 18 which has been approved into the Rhode Island SIP (56 FR 49416). Regulation No. 36 was adopted to incorporate EPA's newly promulgated maximum achievable control technology (MACT) standards for halogenated solvent cleaning (40 CFR part 63, subpart T) and the state's existing VOC requirements for this source category into one regulation. Today's document addresses only the approvability of the VOC requirements in Regulation No. 36 since the state has not yet requested delegation of EPA's halogenated solvent cleaning MACT standard under section 112(l) of the CAA. An analysis of the VOC provisions in Regulation No. 36 shows that these requirements are consistent with EPA's model VOC rules<sup>3</sup> and the CTG for solvent metal cleaning.<sup>4</sup> In addition, since Regulation No. 36 is replacing Regulation No. 18 which was approved into the Rhode Island SIP, CAA section

<sup>3</sup> "Model Volatile Organic Compound Rules for Reasonably Available control Technology," Staff Working document, June 1992.

<sup>4</sup> "Control of Volatile Organic Emissions from Solvent Metal Cleaning" (EPA-450/2-77-022).

110(l) of the CAA must be satisfied. Section 110(l) states that a SIP revision shall not be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. Rhode Island DEM included in its SIP submittal an analysis which shows that for each control requirement in the previously EPA-approved Regulation No. 18 there is a corresponding requirement in Regulation No. 36 that is at least as stringent.

Finally, Rhode Island's March 26, 1996 SIP submittal also includes newly adopted Regulation No. 35 "Control of Volatile Organic Compounds and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations." This rule was subsequently revised and resubmitted to EPA as a SIP revision on June 17, 1996. Emissions from wood furniture manufacturing operations in Rhode Island were previously regulated by requirements in the state's Regulation No. 19 "Control of Volatile Organic Compounds from Surface Coating Operations." These requirements are part of Rhode Island's currently

approved SIP.<sup>5</sup> Regulation No. 35 was adopted to address EPA's newly promulgated MACT standards for wood furniture manufacturing operations (40 CFR part 63, subpart JJ), to update the state's existing VOC requirements for this source category pursuant to the issuance of EPA's wood furniture manufacturing CTG, and to incorporate both sets of requirements into one regulation. Today's notice addresses only the approvability of the VOC requirements in Regulation No. 35 since the state has not requested delegation of EPA's wood furniture MACT standard under section 112(l) of the CAA.

EPA wishes to clarify its understanding of how certain elements of Regulation 35 will be enforced as part of the SIP. Section 35.1.47 refers to "applicable EPA criteria" in defining an acceptable permanent total enclosure. Those criteria are to be found at 40 CFR part 51, appendix M, Test Methods 204 and 204A-204F. Section 35.2.2 refers to facilities becoming subject to Regulation 35 in the future "due to an increase in emissions of VOC." It is clear from the structure of the regulation that it is the potential of a facility to emit VOC, not its actual emissions, that determines whether a facility is subject to the regulation. See sections 35.2.1 and 35.3.1(a) and (b). Section 35.2.3 provides that any reference to VOC in the regulation should also be read to include halogenated organic compounds (HOC). EPA does not regulate HOC for ozone control purposes under the SIP, and DEM has not submitted this section for inclusion in the SIP. EPA wishes to clarify that, if a source uses emissions averaging under 35.6.2(a) to meet VOC limits under the SIP, HOCs cannot be included in the averaging formula. Finally, section 35.3(c) provides for DEM to review the emission limits of facilities every two years and make a new RACT determination. Any new emission limits determined under this provision do not modify the SIP limits, and there is no authority for DEM to relax SIP emission limits under this section without EPA approval in the SIP. Based on these understandings of how Regulation 35 will be implemented, EPA has found Rhode Island's Regulation 35 to be consistent with EPA's CTG for Wood Furniture Manufacturing Operations (EPA-453/R-96-007, April 1996).

<sup>5</sup> The requirements of Regulation No. 19 which apply to wood furniture manufacturing operations were adopted by Rhode Island on October 30, 1992 and approved by EPA on October 18, 1994 (59 FR 52429) prior to the March 26, 1996 issuance of EPA's CTG for wood furniture manufacturing operations.

As stated above, EPA has evaluated all of the submitted Rhode Island VOC regulations and facility specific RACT determinations and has found that, with the exception of the Regulation No. 15 issue noted above, they are consistent with the applicable EPA guidance documents referenced above. As such, EPA believes that the submitted rules and facility RACT determinations constitute RACT for the applicable sources. Rhode Island's VOC rules and facility specific RACT determinations and EPA's evaluation are detailed in a memorandum, dated November 5, 1999, entitled "Technical Support Document—Rhode Island—VOC Rules and RACT Determinations." Copies of that document are available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this document.

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 January 31, 2000 unless adverse or critical comments are received by January 3, 2000.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice 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 January 31, 2000.

## II. Final Action

EPA is granting a full approval of the following Rhode Island Air Pollution Control Regulations and incorporating them into the Rhode Island SIP:

- No. 9: Air Pollution Control Permits
- No. 14: Record Keeping and Reporting
- No. 19: Control of Volatile Organic Compounds from Surface Coating Operations
- No. 21: Control of Volatile Organic Compound Emissions from Printing Operations
- No. 25: Control of VOC Emissions from Cutback and Emulsified Asphalt
- No. 26: Control of Organic Solvent Emissions from Manufacture of Synthesized Pharmaceutical Products

- No. 30: Control of VOCs from Automobile Refinishing Operations
- No. 31: Control of VOCs from Commercial and Consumer Products
- No. 32: Control of VOCs from Marine Vessel Loading Operations
- No. 33: Control of VOCs from Architectural Coatings and Industrial Maintenance Coatings
- No. 35: Control of VOCs and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations
- No. 36: Control of Emissions from Organic Solvent Cleaning

EPA is also granting a full approval of the consent agreements for the following facilities and incorporating them into the Rhode Island SIP: Cranston Print Works; CCL Custom Manufacturing; Quality Spraying and Stenciling; Guild Music; and Victory Finishing Technologies. In addition, EPA is granting a limited approval of Rhode Island's Regulation No. 15 "Control of Organic Solvent Emissions" and incorporating this rule into the Rhode Island SIP. Finally, EPA is approving Rhode Island's negative declaration for the SOCM Distillation and Reactor Processes CTG categories as meeting the CAA VOC RACT requirements for these source categories.

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

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review, entitled "Regulatory Planning and Review."

### B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

#### C. Executive Order 13045

"Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children.

If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

#### D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance

costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

#### E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies 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 small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because 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 create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of 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).

#### F. 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.

#### G. Submission to Congress and the Comptroller General

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

#### H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

#### I. 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 January 31, 2000. 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, Ozone.

Dated: November 23, 1999.

**John P. DeVillars,**  
*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.*

2. In § 52.2070, the table in paragraph (c) is amended by revising entries to existing state citations for Regulations 9, 14, 15, 18, 19, 21, 25, 26, 30, 31, 32, and 33 and by adding new state citations Regulations 35 and 36; and the table in paragraph (d) is amended by adding new citations for Cranston Print Works, CCL Custom Manufacturing, Victory Finishing Technologies, Quality Spray and Stenciling, and Guild Music to read as follows:

**§ 52.2070 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA APPROVED RHODE ISLAND REGULATIONS**

| State citation                       | Title/subject   | State effective date | EPA approval date  | Explanations  |
|--------------------------------------|---|----------------------|--|---|
| Air Pollution Control Regulation 9.  | Air Pollution Control Permits.  | 4/8/96               | 12/2/99<br>[Insert <i>FR</i> citation from published date] | Definition of VOC revised. All of No. 9 is approved with the exception of Sections 9.13, 9.14, 9.15, and Appendix A which Rhode Island did not submit as part of the SIP revision.                              |
| Air Pollution Control Regulation 14. | Record Keeping and Reporting.   | 4/8/96               | 12/2/99<br>[Insert <i>FR</i> citation from published date] | Definition of VOC revised.  |
| Air Pollution Control Regulation 15. | Control of Organic Solvent Emissions.   | 4/8/96               | 12/2/99<br>[Insert <i>FR</i> citation from published date] | Limited approval. Applicability threshold decreased to 50 tpy. Definition of VOC revised. All of No. 15 is approved with the exception of 15.2.2 which Rhode Island did not submit as part of the SIP revision. |
| Air Pollution Control Regulation 18. | Control of Emissions from Organic Solvent Cleaning.   | Withdrawn            | 12/2/99<br>[Insert <i>FR</i> citation from published date] | No. 18 is superseded by No. 36.   |
| Air Pollution Control Regulation 19. | Control of Volatile Organic Compounds from Surface Coating Operations.                        | 3/7/96               | 12/2/99<br>[Insert <i>FR</i> citation from published date] | Definition of VOC revised. Wood products requirements deleted because state adopted new Regulation No. 36 which addresses wood products.  |
| Air Pollution Control Regulation 21. | Control of Volatile Organic Compound Emissions from Printing Operations.                      | 4/8/96               | 12/2/99<br>[Insert <i>FR</i> citation from published date] | Applicability threshold decreased to 50 tpy. Definition of VOC revised. All of No. 21 is approved with the exception of Section 21.2.3 which the state did not submit as part of the SIP revision.              |
| Air Pollution Control Regulation 25. | Control of VOC Emissions from Cutback and Emulsified Asphalt.                                 | 4/8/96               | 12/2/99<br>[Insert <i>FR</i> citation from published date] | Definition of VOC revised. All of No. 25 is approved with the exception of Section 25.2.2 which the state did not submit as part of the SIP revision.   |
| Air Pollution Control Regulation 26. | Control of Organic Solvent Emissions from Manufacture of Synthesized Pharmaceutical Products. | 4/8/96               | 12/2/99<br>[Insert <i>FR</i> citation from published date] | Definition of VOC revised. All of No. 26 is approved with the exception of 26.2.3 which the state did not submit as part of the SIP revision.   |
| Air Pollution Control Regulation 30. | Control of VOCs from Automobile Refinishing.  | 4/8/96               | 12/2/99<br>[Insert <i>FR</i> citation from published date] | Definition of VOC revised. All of No. 30 is approved with the exception of Section 30.2.2 which the state did not submit as part of the SIP revision.   |
| Air Pollution Control Regulation 31. | Control of VOCs from Commercial and Consumer Products.  | 4/8/96               | 12/2/99<br>[Insert <i>FR</i> citation from published date] | Definition of VOC revised. All of No. 31 is approved with the exception of Section 31.2.2 which the state did not submit as part of the SIP revision.   |

EPA APPROVED RHODE ISLAND REGULATIONS—Continued

| State citation                       | Title/subject  | State effective date | EPA approval date                                   | Explanations  |
|--------------------------------------|--|----------------------|---|---|
| Air Pollution Control Regulation 32. | Control of VOCs from Marine Vessel Loading Operations.   | 4/8/96               | 12/2/99<br>[Insert FR citation from published date] | Definition of VOC revised. All of No. 32 is approved with the exception of Section 32.2.2 which the state did not submit as part of the SIP revision. |
| Air Pollution Control Regulation 33. | Control of VOCs from Architectural Coatings and Industrial Maintenance Coatings.                   | 4/8/96               | 12/2/99<br>[Insert FR citation from published date] | Definition of VOC revised All of No. 33 is approved with the exception of Section 33.2.2 which the state did not submit as part of the SIP revision.  |
| Air Pollution Control Regulation 35. | Control of VOCs and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations. | 7/7/96               | 12/2/99<br>[Insert FR citation from published date] | All of No. 35 is approved with the exception of Section 35.2.3 which the state did not submit as part of the SIP revision.                            |
| Air Pollution Control Regulation 36. | Control of Emissions from Organic Solvent Cleaning.  | 4/18/96              | 12/2/99<br>[Insert FR citation from published date] | All of No. 36 is approved with the exception of Section 36.2.2 which the state did not submit as part of the SIP revision.                            |
| *                                    | *  | *                    | *   | *   |

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EPA APPROVED RHODE ISLAND SOURCE SPECIFIC REQUIREMENTS

| Name of source                  | Permit No.               | State effective date | EPA approval date                                   | Explanations                        |
|---------------------------------|--------------------------|----------------------|---|-------------------------------------|
| Cranston Print Works ....       | A. H. File No. 95-30-AP. | 12/19/95             | 12/2/99<br>[Insert FR citation from published date] | Non-CTG VOC RACT Determination.     |
| CCL Custom Manufacturing.       | A. H. File No. 97-02-AP. | 4/10/97<br>10/27/99  | 12/2/99<br>[Insert FR citation from published date] | Non-CTG VOC RACT Determination.     |
| Victory Finishing Technologies. | A. H. File No. 96-05-AP. | 5/24/96              | 12/2/99<br>[Insert FR citation from published date] | Alternative VOC RACT Determination. |
| Quality Spray and Stenciling.   | A. H. File No. 97-04-AP. | 10/21/97<br>7/13/99  | 12/2/99<br>[Insert FR citation from published date] | Alternative VOC RACT Determination. |
| Guild Music .....               | A. H. File No. 95-65-AP. | 11/9/95              | 12/2/99<br>[Insert FR citation from published date] | Alternative VOC RACT Determination. |

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**LEGAL SERVICES CORPORATION**

**45 CFR Part 1641**

**Debarment, Suspension and Removal of Recipient Auditors**

**AGENCY:** Legal Services Corporation.  
**ACTION:** Final rule.

**SUMMARY:** This rule implements a provision in the Legal Services Corporation's ("Corporation" or "LSC") fiscal year 1996 and subsequent fiscal year appropriations acts which authorized the Office of Inspector General ("OIG") to remove, suspend, or bar an independent public accountant,

upon a showing of good cause, from performing audit services . . . after notice to the auditor and an opportunity for hearing. This rule sets out the debarment, suspension and removal authority of the OIG and informs independent public accountants performing audit services for LSC recipients of their rights, and the standards that will apply, in connection with debarment, suspension and removal actions.

**DATES:** This final rule is effective January 3, 2000.

**FOR FURTHER INFORMATION CONTACT:** Laurie Tarantowicz, Counsel, Office of Inspector General, (202) 336-8830, LTarantowicz@oig.lsc.gov.

**SUPPLEMENTARY INFORMATION:** The Corporation's fiscal year 1996 appropriations act authorized the LSC

Inspector General ("IG") to "remove, suspend, or bar an independent public accountant, upon a showing of good cause, from performing audit services . . . after notice to the auditor and an opportunity for hearing." Pub. L. No. 104-134, 110 Stat. 1321, § 509(d) (1996). This provision has continuing effect in fiscal years 1997, Pub. L. No. 104-208, 110 Stat. 3009, § 503(a) (1996) and 1998, Pub. L. No. 105-119, 111 Stat. 2440 (1997), and 1999, Pub. L. No. 105-277 (1998). In accordance with the statutory direction to "develop and issue rules of practice," 110 Stat. 1321, § 509(d), the OIG issues this rule. On September 11, 1998, the LSC Board of Directors' Operations and Regulations Committee held public hearings on proposed 45 CFR Part 1641. The proposed rule was published in the **Federal Register** on