

E. 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).)

List of Subjects in 40 CFR Part 52

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

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

Dated: January 15, 1998.

David P. Howekamp,

Acting Regional Administrator, Region IX.

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 *et seq.*

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraphs (c)(78)(i)(C), (c)(82)(i)(C), (c)(83) and (c)(85) to read as follows:

§ 52.120 Identification of plan.

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(c) * * *

(78) * * *

(i) * * *

(C) Rule 339, adopted on November 16, 1992.

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(82) * * *

(i) * * *

(C) Rule 351, revised on February 15, 1995.

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(83) New and revised rules and regulations for the Maricopa County Environmental Services Department-Air Pollution Control were submitted on February 26, 1997, by the Governor's designee.

(i) Incorporation by reference.

(A) Rules 331, 333, and 334, revised on June 19, 1996, and Rule 338, adopted on June 19, 1996.

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(85) New and revised rules and regulations for the Maricopa County Environmental Services Department-Air Pollution Control were submitted on March 4, 1997, by the Governor's designee.

(i) Incorporation by reference.

(A) Rule 337, revised on November 20, 1996, and Rules 342, and 346, adopted on November 20, 1996.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[TX-85-1-7344a; FRL-5955-8]

Approval and Promulgation of Air Quality Plans, Texas; Revision to the Texas State Implementation Plan (SIP); Alternate Reasonably Available Control Technology (ARACT) Demonstration for Raytheon TI Systems, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving an Alternate Reasonably Available Control Technology (ARACT) for Raytheon TI Systems, Inc. (RTIS). This action results from a request, on January 9, 1997, by the Texas Governor asking for an exemption for RTIS from Texas Regulation V, Section 115.421. This regulation requires that volatile organic compound (VOC) emissions from the coating of miscellaneous metal parts and products shall not exceed 6.7 pounds per gallon of solids (or 3.5 pounds per gallon of coating) delivered to the application system. The approval is granted based on the technical and economic infeasibility of meeting 115.421 and additional control requirements specified in the State submittal.

DATES: This action is effective on April 10, 1998, unless notice is postmarked by March 11, 1998, 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 State's petition 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.

Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, TX 78753. Anyone wishing to review this petition at 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) 665-7214.

SUPPLEMENTARY INFORMATION:**I. Background**

Part D of the Clean Air Act (the Act) requires ozone nonattainment plans to include regulations providing for VOC emission reductions from existing sources through the adoption of Reasonably Available Control Technology (RACT). The EPA defined RACT in a September 17, 1979, **Federal Register** (FR) document (44 FR 53762) 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 economic feasibility.

Through the publication of Control Technique Guideline (CTG) documents, EPA has identified pollution control levels that EPA presumes to constitute RACT for various categories of sources. Where the State finds the presumptive norm applicable to an individual source or group of sources, the State typically adopts requirements consistent with the presumptive norm. However, States may develop case-by-case RACT determinations if a particular facility cannot meet the presumptive norm of RACT set forth in the CTG. These case-by-case determinations are called ARACT determinations and are approved with the understanding that they demonstrate that no equivalent alternative technology is available and that no emission control equipment is technically or economically feasible.

RTIS is applying for an ARACT under this policy.

A. Raytheon TI Systems, Inc.

Located at Lemmon Avenue in Dallas, Texas, RTIS manufactures computer-related electronics for private, commercial and military use. As part of its manufacturing operations, RTIS uses solvents, inks, thinners and urethanes to coat metal components. It has reported VOC emissions exceeding the 6.7 pounds of VOC per gallon of solids limit on an individual line basis. Since the present method of coating uses a volatile solvent in amounts which exceed the limit under Texas Regulation V, Section 115.421(4) VOC emission standard, RTIS has requested an exemption under 115.427(a)(5)(B) which will allow them to use an alternative method to meet the RACT specifications.

B. Alternate RACT Analysis

EPA developed a guidance document entitled Guidance for developing an Alternate Reasonably Available Control Technology (RACT) Demonstration for the Tulsa Aerospace Industry, dated October 2, 1989. This document applies to the Aerospace industry and was applicable to RTIS's ARACT analysis as well. This document was issued for States and industries to follow in developing documents to justify deviation from the recommended CTG approach. The EPA has reviewed the RTIS ARACT proposal based on this guidance. A copy of this guidance document is included in the technical support document.

RTIS investigated the options available for reducing emissions from its surface coating operations. Among those were coating reformulation, enhanced application techniques that would improve transfer efficiency, facility redesign and add-on control equipment to reduce VOC emissions.

RTIS investigated the use of low-solvent coating technologies. Among those were high-solids coatings, water-borne coating and powder coatings. The current suppliers of surface coatings to RTIS were contacted to determine if such coatings were either currently available or soon to be available. Where substitute coatings were discovered, they have been incorporated into the provisions of this ARACT determination. For those coatings not replaced with low-solvent coatings, individual coating limits have been established.

In addition to researching alternate low solvent coatings and developing alternate VOC limits for other coatings, RTIS has investigated various high-

transfer efficiency applications including electrostatic deposition, powder coating technology and hot spray units. RTIS reviewed five high volume low pressure (HVLP) application systems, and found one system to be ten to 30 percent more efficient than its competitors. RTIS selected this system and is currently expanding its use throughout the paint shop, whenever feasible. Electrostatic applicators were installed on one program, but the system did not perform as well as anticipated, and RTIS plans to discontinue use of this system and pursue expanded use of HVLP systems and powder coatings. RTIS evaluated powder coatings and identified four which met the customer's coating performance criteria. These coatings are being introduced into production.

As mentioned above, RTIS investigated the use of add-on control equipment in its operations. Control technology vendors were contacted to determine if such equipment could be suitable for RTIS's specific operations. Four primary types of abatement systems were considered: Regenerative thermal oxidation, carbon/zeolyte concentration with oxidation, ozonation and biological destruction. The total cost effectiveness estimates for the various types of add-on controls were prepared and analyzed for feasibility. Cost estimated were developed based on 4.8 tons per year of VOC removed at a minimum destruction efficiency of 95 percent for any system. The actual concentration of VOC in the exhaust stream and the total volume of air to be treated are the primary factors considered when determining cost effectiveness. While there are several add-on technically feasible systems available, RTIS Lemmon Avenue facility concluded that none are economically cost effective.

The EPA reviewed the information developed by RTIS and agrees that the majority of the costs should not be considered cost effective in this situation relative to the cost effectiveness assumed in the CTG for miscellaneous metal parts and products. Again, please refer to the EPA's technical support document for a complete listing of the vendors contacted, emission reduction calculations for various control systems, as well as the cost determinations for add-on controls.

RTIS's request for exemption under Texas Regulation V, Section 115.427(6)(B) is approved based on the information provided by RTIS and special stipulations specified in the state submittal. The EPA's review of the information provided by the State of

Texas and RTIS has shown that presently no low VOC applicable coatings are commercially available and that no add-on emission controls are economically feasible. They believe that the RACT requirements in Section 115.421 are not reasonable for RTIS and are granting RTIS an ARACT as the exemption from the regulation. The EPA has determined that the VOC emission limit and special stipulations discussed in the State submittal constitute RACT for RTIS. Please see the State's submittal and Commission Order for details on the VOC emission limit and the specific stipulations which constitute RACT for RTIS.

II. Final Action

The EPA is approving Texas' site-specific RACT determination issued by the State of Texas under Commission Order Number 961180-SIP, dated December 4, 1996, as a revision to the Texas SIP. The EPA has reviewed this request for revision of the federally approved SIP for conformance with the provisions of the Act. The EPA is publishing this action without prior proposal because EPA 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 is effective April 10, 1998, unless adverse or critical comments are postmarked by March 11, 1998. If 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 on this action, the public is advised that this action is effective April 10, 1998.

The EPA has reviewed this request for conformance with the provisions of the Act and has determined that this action conforms to those requirements.

III. Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget 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, 25566 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, 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 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. 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. 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 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) of the Act.

List of Subjects in 40 CFR Part 52

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

Dated: January 9, 1998.

Lynda F. Carroll,

Acting Regional Administrator, Region VI.

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 *et seq.*

Subpart SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(108) to read as follows:

§ 52.2270 Identification of Plan.

* * * * *

(c) * * *

(108) A revision to the Texas State Implementation Plan to adopt an alternate control strategy for the surface coating processes at Raytheon TI Systems, Inc., Lemmon Avenue Facility.

(i) Incorporation by reference.

(A) Commission Order Number 96–1180–SIP issued and effective December 4, 1996, for Texas Instruments, Inc.,

prior owner of the Lemmon Avenue facility, approving an Alternate Reasonably Available Control Technology (ARACT) demonstration for its Lemmon Avenue facility. Raytheon TI Systems assumed operating responsibility for this facility on July 3, 1997.

(B) A letter from the Governor of Texas dated January 9, 1997, submitting the TI ARACT to the Regional Administrator.

(ii) Additional material. The document prepared by the Texas Natural Resource Conservation Commission titled "A Site-Specific Revision to the SIP Concerning the Texas Instruments Lemmon Avenue Facility."

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ENVIRONMENTAL PROTECTION AGENCY

49 CFR Parts 60 and 61

[FRL–5960–4]

Technical Amendments to Standards of Performance for New Stationary Sources National Emission Standards for Hazardous Air Pollutants Addition of Method 29 to Appendix A of Part 60 and Amendments to Method 101A of Appendix B of Part 61; Correction of Effective Date Under Congressional Review Act (CRA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction of effective date under CRA.

SUMMARY: On April 25, 1996 (61 FR 18260), the Environmental Protection Agency published in the **Federal Register** a final rule adding Method 29, "Determination of Metals Emissions from Stationary Sources," to appendix A of part 60, and making amendments to Method 101A of appendix B of part 61, which established an effective date of April 25, 1996. This document corrects the effective date of the rule to February 9, 1998 to be consistent with sections 801 and 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801 and 808.

EFFECTIVE DATE: This rule is effective on February 9, 1998.

The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register February 9, 1998.

FOR FURTHER INFORMATION CONTACT: