

TABLE 3.—2007 EMISSIONS BUDGETS FOR ON-ROAD MOBILE SOURCES IN TONS PER SUMMER DAY (TPSD)

Area	2007 VOC budget	2007 NO _x budget
Rhode Island	30.37	33.62

On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued a decision on certain provisions of EPA's 1997 conformity rule in response to a case brought by the Environmental Defense Fund. As a result of the decision, a conformity determination cannot be made using the submitted motor vehicle emissions budgets until EPA makes a positive determination that the submitted budget is adequate. In response to the court's decision, EPA issued guidance on our new adequacy process on May 14, 1999¹⁵

EPA believes that these motor vehicle emissions budgets are adequate for use in future transportation conformity analyses as these budgets meet all of the requirements set forth by EPA's adequacy criteria, were developed using EPA's MOBILE6 model, and are consistent with the attainment demonstration. However, prior to making an adequacy finding, EPA must administer a 30 day comment period for these budgets. Therefore, in today's action EPA is opening up the adequacy comment period on these budgets to run concurrently with the comment period for all of today's action. In addition, this **Federal Register** Notice will appear on EPA's Transportation and Air Quality planning website at <http://www.epa.gov/otaq/transp/conform/adequacy.htm>. All comments on these budgets should be submitted to EPA using the procedure outlined earlier in this notice.

J. Contingency Measures

Rhode Island addressed the contingency measure requirement of section 172(c)(9) of the Clean Air Act by demonstrating that the emission reductions from the federal on-road motor vehicle Tier 2 tailpipe standards and sulfur in gasoline rules, and the federal non-road engine control program that accrue between 2007 and mid-2009, which is the date by which emission reductions from contingency measures would need to occur, will achieve more emission reductions than Rhode Island

needs to meet its three percent attainment contingency obligation. We propose approval of Rhode Island's contingency measure submittal.

VIII. Proposed Action

EPA is proposing to fully approve as meeting CAA section 182(c)(2) the ground-level one-hour ozone attainment demonstration State Implementation Plan for the Rhode Island nonattainment area submitted by Rhode Island on January 27, 2003. EPA is proposing an attainment date of November 15, 2007 for the area, and is proposing that the RACM analysis for the Rhode Island area is consistent with the requirements of section 172(c)(1). EPA proposes approval of Rhode Island's contingency measures submittal, which is consistent with the requirements of section 172(c)(9) of the CAA. This notice also proposes to approve 2007 motor vehicle emissions budgets for Rhode Island into the SIP.

This SIP is being proposed under a procedure called parallel processing, whereby EPA proposes rulemaking action concurrent with the state's procedures for amending its regulations. If the proposed plan is substantially changed, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made, EPA will publish a Final Rulemaking Notice on the revisions. Before EPA can finally approve this plan Rhode Island must finally adopt the SIP revision and submit it formally to EPA for incorporation into the SIP.

EPA is soliciting public comments on the issues discussed in this proposal. These issues will be considered before EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this action.

A more detailed description of the state submittal and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available upon request from the EPA Regional Office listed in the **ADDRESSES** section of this document.

IX. 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. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply,

Distribution, or Use" (66 FR 28355, May 22, 2001). 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 "Protection of Children from Environmental Health Risks and Safety Risks" (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 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. This rule does

¹⁵ Memo from Gay MacGregor, Director, Regional and State Programs Division, USEPA Office of Mobile Sources, to Regional Air Division Directors, titled "Conformity Guidance on Implementation of March 2, 1999 Conformity Court decision," dated May 14, 1999.