in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by May 30, 1996.

ADDRESSES: Written comments on this action should be addressed to: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street SW., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812–2815

Placer County Air Pollution Control District, 11464 B Avenue, Auburn, CA 95603

El Dorado County Air Pollution Control District, 2850 Fairlane Court, Placerville, CA 95667

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, CA 93003

Yolo Solano Air Quality Management District, 1947 Galileo Court, Suite 103, Davis, CA 95616

Mojave Desert Air Quality Management District, 15428 Civic Drive, Suite 200, Victorville, CA 92392–2383

FOR FURTHER INFORMATION CONTACT: Daniel A. Meer, Chief Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415)744–1185.

SUPPLEMENTARY INFORMATION: This document concerns Placer County Air Pollution Control District Rules 216, Organic Solvent Degreasing, and El Dorado County Air Pollution Control District Rule 235, Surface Preparation and Cleanup, submitted to EPA on October 13, 1995 by the California Air Resources Board; Placer County Air Pollution Control District Rule 236, Wood Products Coatings, submitted to EPA by the California Air Resources Board on May 24, 1995; El Dorado County Air Pollution Control District Rule 225, Organic Solvent Cleaning, and Rule 230, Automotive Refinishing, Yolo-Solano Air Quality Management District Rule 2.13, Organic Solvents, and Mojave Desert Air Quality Management District Rule 1104, Organic Solvent Cleaning, submitted to EPA by the California Air Resources Board on November 30, 1994; Ventura County Air Pollution Control District Rule 74.18, and Yolo-Solano Rule 2.26, Motor Vehicle and Mobile Equipment Coating Operations, submitted to EPA by the California Air Resources Board on February 24, 1995; Ventura County Air Pollution Control District Rule 74.30, Wood Products Coatings, and Mojave Desert Air Quality Management District Rule 1117, Graphic Arts, submitted to EPA by the California Air Resources Board on July 13, 1994; and Mojave Desert Air Quality Management District Rule 1114, Wood Products Coatings, submitted to EPA by the California Air Resources Board on March 31, 1995. For further information, please see the information provided in the Direct Final action which is located in the Rules Section of this Federal Register.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 26, 1996.

Felicia Marcus,

Regional Administrator.

[FR Doc. 96–10564 Filed 4–29–96; 8:45 am]

BILLING CODE 6560–50–W

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40 CFR Part 59

[AD–FRL–5463–6]

RIN 2060–AE35

National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The EPA proposes standards to reduce emissions of volatile organic compounds (VOC) from the use of automobile refinish coatings. The proposed standards are in the first phase of implementation of the portion of the Clean Air Act (Act) that requires the Administrator to control VOC emissions from certain categories of consumer and commercial products.

Exposure to ozone is associated with a wide variety of human health effects, agricultural crop loss, and damage to forests and ecosystems. As required by section 183(e) of the Act, the Administrator conducted a study to determine the potential of consumer and commercial products to contribute to ozone levels that violate the National Ambient Air Quality Standards (NAAQS) for ozone. Because the automobile refinish coatings category is a significant source of VOC emissions, the EPA is proposing standards to reduce emissions from this source.

DATES: *Comments.* Comments must be received on or before July 1, 1996.

Public Hearing. A public hearing will be held, if requested. If anyone contacts the EPA requesting to speak at a public hearing by May 21, 1996, a public hearing will be held on May 30, 1996, beginning at 9:00 a.m.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact Ms. Marguerite Thweatt at the EPA by May 21, 1996.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate) to: Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–95–18, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Public Hearing. Persons interested in attending the hearing should notify Ms. Marguerite Thweatt, (919) 541–5607, to verify that a hearing will occur and for notification of the location of the meeting.

Request to Speak at Hearing. To present oral testimony contact Ms. Thweatt at the following address: Organic Chemicals Group (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5607, FAX number (919) 541–3470.

Docket. Docket No. A–95–18, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at the EPA's Air and Radiation Docket and Information Center, Waterside Mall, Room M–1500, 1st Floor, 401 M Street, SW, Washington, DC 20460, telephone (202) 260–7548, FAX (202) 260–4400. The proposed regulatory text and other materials related to this rulemaking are available for review in the docket. A reasonable fee may be charged for copying.

Background Information Document. The background information document (BID) supporting the proposed standards may be obtained from the docket or

from the U.S. EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777. Please refer to ''Automobile Refinish Coatings—Background Information for Proposed Standards,'' EPA–453/D–95–005a.

FOR FURTHER INFORMATION CONTACT: For information concerning the proposed standards, contact Mr. Mark Morris at (919) 541–5416, Organic Chemicals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: The regulatory text of the proposed rule is not included in this Federal Register notice, but is available in Docket No. A–95–18 (see **ADDRESSES** for information about the docket). The proposed regulatory language is also available on one of the EPA's Technology Transfer Network (TTN) electronic bulletin boards. The TTN provides information and technology exchange in various areas of air pollution control. The service is free, except for the cost of a phone call. Dial (919) 541–5742 for up to a 14,400 bits per second (bps) modem. If more information on the TTN is needed, call the help desk at (919) 541–5384.

The information presented in this preamble is organized as follows:

I. Background
A. Clean Air Act Requirements
B. Legislative Authority
C. Regulatory Background
D. Supporting Documentation for the Proposed Standards
II. Summary of Proposed Standards
A. Applicability of the Standards
B. Regulated Entities
C. Standards
D. Compliance Requirements
E. Labeling Requirements
F. Reporting
G. Variance
H. Test Methods
III. Summary of Impacts
A. Environmental Impacts
B. Energy Impacts
C. Cost and Economic Impacts
D. Cost-Effectiveness
IV. Rationale
A. Applicability
B. Selection of BAC
C. Selection of Regulatory Format
D. Labeling Requirements
E. Selection of Reporting Requirements
F. Variance
G. Test Methods
H. Solicitation of Comments
V. Administrative Requirements
A. Public Hearing
B. Executive Order 12866
C. Paperwork Reduction Act
D. Regulatory Flexibility Act
E. Unfunded Mandates Reform Act

I. Background

A. Clean Air Act Requirements

Exposure to ground-level ozone is associated with a wide variety of human health effects, agricultural crop loss, and damage to forests and ecosystems. The most thoroughly studied health effects of exposure to ozone at elevated levels during periods of moderate to strenuous exercise are the impairment of normal functioning of the lungs, symptomatic effects, and reduction in the ability to engage in activities that require various levels of physical exertion. Typical symptoms associated with acute (1 to 3 hour) exposure to ozone at levels of 0.12 ppm or higher under heavy exercise or 0.16 ppm or higher under moderate exercise include cough, chest pain, nausea, shortness of breath, and throat irritation.

Ground-level ozone, which is a major component of ''smog,'' is formed in the atmosphere by reactions of VOC and oxides of nitrogen (NO_X) in the presence of sunlight. In order to reduce ground-level ozone levels, emissions of VOC and NO_X must be reduced.

Section 183(e) of the Act requires the Administrator to study and report to Congress on emissions of VOC into the ambient air from consumer and commercial products and their potential to contribute to ozone nonattainment levels. In addition, section 183(e) requires the Administrator to list those categories of consumer and commercial products that account for at least 80 percent of the VOC emissions, on a reactivity-adjusted basis, in ozone nonattainment areas and establish priorities for their regulation. The list is to be divided into four groups, with one group regulated every 2 years until all four groups are regulated.

The EPA submitted the Report to Congress on March 15, 1995, and on this same date established the priority list for future regulation of the consumer and commercial products that account for 80 percent of VOC emissions, on a reactivity-adjusted basis, in nonattainment areas (published on March 23, 1995, at 56 FR 15264). Automobile refinish coatings are in the first group of products to be regulated by March 1997. This listing and prioritization are not final Agency actions, and EPA requests comment on the placement of automobile refinish coatings on the list and the priority assigned to these coatings. Further details about the study and the listing are available in the March 23, 1995, Federal Register.

B. Legislative Authority

Section 183(e) of the Act gives the EPA the authority to establish national standards to reduce VOC emissions from automobile refinish coatings. According to the Act, regulations developed under this section shall require best available controls (BAC). Best available controls are defined in section 183(e)(1)(A) as follows:

> The term ''best available controls'' means the degree of emissions reduction that the Administrator determines, on the basis of technological and economic feasibility, health, environmental, and energy impacts, is achievable through the application of the most effective equipment, measures, processes, methods, systems, or techniques, including chemical reformulation, product or feedstock substitution, repackaging, and directions for use, consumption, storage, or disposal.

Section IV.B describes the EPA's determination of BAC for the proposed regulation.

The EPA could satisfy the requirements of section 183(e) by issuing Control Techniques Guidelines (CTG) instead of a national rule for automobile refinish coatings.

Section 183(e)(3)(C) states:

> For any consumer or commercial product the Administrator may issue control techniques guidelines under this Act in lieu of regulations required under subparagraph (A) if the administrator determines that such guidance will be substantially as effective as regulations in reducing emissions of volatile organic compounds which contribute to ozone levels in areas which violate the national ambient air quality standard for ozone.

In many cases, CTG's can be effective regulatory approaches to reduce emissions of VOC in nonattainment areas—with the advantage of not imposing control costs on attainment areas, where VOC emissions reductions may be less beneficial. On the other hand, rules based on CTG's may impose requirements and costs in nonattainment areas that are beyond those of a national rule. For example, State automobile refinish rules require recordkeeping by body shops, while the national rule does not.

The EPA can also use other systems of regulation. According to section 183(e)(4), EPA can consider ''any system or systems of regulation as the Administrator deems appropriate, including requirements for registration and labeling, self-monitoring and reporting, prohibitions, limitations, or economic incentives (including marketable permits and auctions of emissions rights) concerning the manufacture, processing, distribution, use, consumption or disposal of the

product.'' The EPA solicits comments on alternative approaches to regulation in section IV.H.

C. Regulatory Background

Automobile refinish coatings are included under the definition of consumer and commercial products since the definition under section 183(e) of the Act specifically includes paints, coatings, and solvents. Section 183(e) of the Act requires that the first group of consumer and commercial products (i.e., those with highest priority for regulation) be regulated within 2 years after publication of the regulatory schedule. As mentioned previously, automobile refinish coatings are in the first group of consumer and commercial products to be regulated. The regulation is required by March 1997. The criteria which contribute to the prioritization of automobile refinish coatings in the first group of consumer and commercial products to be regulated include the availability of alternatives, the cost-effectiveness of controls, and the VOC emissions in ozone nonattainment areas. Further details about the criteria used to prioritize consumer and commercial product categories for regulation are available in the Report to Congress.

Automobile refinish coating regulations are in place or under development in a number of States. For the companies that market automobile refinish coatings nationwide, trying to fulfill the differing requirements of State rules has created administrative, technical, and marketing problems. A Federal rule is expected to provide some degree of consistency, predictability, and administrative ease for the industry.

In addition, State representatives have recommended that the EPA develop and implement nationwide Federal control measures to enhance enforceability and conserve State resources.

D. Supporting Documentation for the Proposed Standards

The automobile refinish coating background information document (BID) (EPA publication number EPA–453/D–95–005a) contains supporting documentation for this proposal. It contains a product category description, an industry profile, a discussion of control measures and their associated costs, and a description of the expected emissions reductions. Other supporting information for this proposed regulation includes existing State regulations, meeting summaries, and the report to Congress on consumer and commercial products. This information is contained in the docket and is available to the public as described above.

II. Summary of Proposed Standards

The proposed standards are summarized below. The rationale for the regulatory decisions made in developing these standards is provided in section IV.

A. Applicability of the Standards

The provisions of this proposed rule apply to automobile refinish coatings that are manufactured or imported for sale or distribution in the United States.

The proposed standards do not apply to the following automobile refinish coatings:

(1) Coatings manufactured exclusively for sale outside the United States;

(2) Coatings manufactured or imported before the compliance date of the rule;

(3) Coatings manufactured for use by original equipment manufacturers for assembly-line coating operations; and

(4) Coatings supplied in nonrefillable aerosol containers.

B. Regulated Entities

Regulated entities are defined under section 183(e) to include manufacturers, processors, wholesale distributors, and importers. This proposed rule limits the VOC contents of coatings manufactured or imported for use in this country. Since the distribution of coatings has no effect on whether compliant coatings are used, distributors are not regulated entities under this proposed rule.

C. Standards

Coatings subject to this proposed rule shall comply with the VOC content standards listed in table 1. If a coating is marketed under more than one of the listed coating categories, the coating shall comply with the lowest applicable VOC content standard.

TABLE 1.—VOC CONTENT STANDARDS FOR AUTOMOBILE REFINISH COATINGS

Coating Category	VOC Content[a] (grams/liter)
Pretreatment Wash Primer.	780
Primer/Primer Surfacer	575
Primer Sealer	550
Single/2 Stage Topcoats	600
Topcoats of 3 or more stages.	625
Specialty Coatings[b]	840

[a]VOC content means the amount of VOC in a coating that has been prepared for application according to the manufacturer's mixing instructions, excluding water and exempt compounds.

[b]Specialty coatings include adhesion promoters, anti-glare/safety coatings, bright metal trim repair coatings, elastomeric materials, impact-resistant coatings, rubberized asphaltic underbody coatings, uniform finish blenders, and weld-through primers.

D. Compliance Requirements

The compliance date of the rule is 4 months after the promulgation date of the rule.

E. Labeling Requirements

Containers of all subject coatings must bear labels or lids that include the date of manufacture of the contents or a code indicating the date of manufacture.

F. Reporting

Manufacturers and importers of coatings subject to the proposed standards must file an initial report. The initial report must be submitted by the compliance date or within 180 days after becoming subject to the rule, whichever is later. The initial report must include the following information:

(1) The name and mailing address of the manufacturer or importer.

(2) In cases where codes are used to represent the date of manufacture, the manufacturer or importer shall submit an explanation of each date code to the Administrator. An explanation of any new date codes shall be filed with the Administrator no later than 30 days after it is first introduced into commerce.

G. Variance

The proposed rule allows manufacturers and importers of automobile refinish coatings to submit a written application to the Administrator requesting a variance if, for reasons beyond their reasonable control, they cannot comply with the requirements of the proposed rule. The application must include the following information:

(1) The specific grounds for which the variance is sought;

(2) The proposed date(s) by which compliance with the provisions of the rule will be achieved; and

(3) A compliance report reasonably detailing the method(s) by which compliance will be achieved.

Upon receipt of the variance application, the Administrator will hold a public hearing to determine whether, under what conditions, and to what extent, a variance from the requirements of the proposed rule is necessary and will be permitted.

The Administrator may grant a variance if the following criteria are met:

(1) By complying with the proposed rule, the applicant would bear unreasonable economic hardship;

(2) The public benefit of avoiding hardship to the applicant outweighs the public interest in any increased emissions or air contaminants that would result from issuing the variance; and

(3) The proposed compliance schedule can be reasonably implemented, and compliance will be achieved as expeditiously as possible.

The approved variance order will designate a final compliance date and a condition that specifies increments of progress necessary to assure timely compliance. A variance shall end immediately upon the failure (of the party to whom the variance was granted) to comply with any term or condition of the variance.

H. Test Methods

For purposes of determining compliance with this rule, the VOC content of each coating product manufactured or imported must be determined using EPA's Reference Method 24—''Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings,'' found in 40 CFR part 60, appendix A. Analysis of waterborne coating VOC content determined by Reference Method 24 must be adjusted as described in section 4.4 of Reference Method 24.

The Administrator may approve, on a case-by-case basis, alternative methods of determining the VOC content of coatings if they are demonstrated to the Administrator's satisfaction to provide results equivalent to those obtained using Reference Method 24.

III. Summary of Impacts

A. Environmental Impacts

This section will discuss the incremental increase or decrease in air pollution, water pollution, and solid waste generation that would result from implementing the proposed standards.

1. Air Pollution Impacts

The proposed standards would reduce nationwide emissions of VOC from the use of automobile refinish coatings by an estimated 32,500 Mg (35,800 tons) in 1996. These reductions are compared to 1995 baseline emissions estimates. Since many regulated VOC species are also on the list of hazardous air pollutants (HAP) in section 112 of the Act, the proposed rule is expected to reduce some HAP emissions from the use of automobile refinish coatings.

2. Water and Solid Waste

There are no adverse solid waste impacts anticipated from compliance with this rule. It is not expected that the disposal of coatings as solid waste will increase as a result of this rule. In fact, because the compliant (higher solids) coatings are more concentrated, fewer containers will require disposal when the same volume of solids is applied.

In cases where conversion from solventborne to waterborne coatings is the method used to achieve compliance, an increase in wastewater discharge may occur if waste waterborne coatings are discharged to publicly owned treatment works.

B. Energy Impacts

There are no adverse energy impacts anticipated from compliance with this rule. Compliant coatings will not require different application equipment and no add-on controls are required.

C. Cost and Economic Impacts

The total cost of this rule includes coating manufacturer process modification costs, and costs for training coating manufacturer representatives, distributors, and body shop personnel. The EPA believes that coatings that meet the VOC content limits of this proposed rule do not have longer drying times than conventional coatings; therefore, the EPA has not included costs for lost productivity in this rule. The EPA requests comments and data regarding the drying times of coatings compliant with this proposed rule, and any information that indicates that there may be costs due to losses in productivity. The annual cost of this rule is 4.5 million dollars, or about $140 per megagram of VOC emissions reductions.

If the manufacturer and distributor costs are completely passed on as a coating price increase, the price of coatings is estimated to increase less than 10 cents per gallon (less than 0.2 percent). If the total cost of the rule is passed on as an increase in the price of a refinish job, the price is estimated to increase less than 30 cents per job (less than 0.05 percent).

D. Cost-Effectiveness

The EPA often compares the relative cost of different measures for controlling a pollutant by calculating the ''cost-effectiveness'' of the measures. Using EPA's traditional calculation methodology, the cost-effectiveness of a regulation that applies nationwide is based on a comparison of national costs and nationwide emission reductions. This comparison is expressed as the cost per megagram (or ton) of emissions reduced. Using cost and emission reduction figures presented earlier in this section of the preamble, the nationwide cost-effectiveness of the proposed regulation is $140/Mg ($130/ton).

Alternative ways to calculate a measure of the ''cost-effectiveness'' of the regulation have been suggested by others. One alternative would be to calculate cost-effectiveness on the basis of the nationwide cost of the regulation ($4.5 million for the proposed regulation) and the VOC reduction achieved in ozone nonattainment areas. The stated rationale for this approach is that cost-effectiveness measures should be designed in a way that best represents the objective of the regulatory action. In this case, for example, a major objective, though not the only objective, of these regulations is the control of ozone formation in nonattainment areas. By establishing nationwide standards, the cost of achieving emission reductions in ozone nonattainment areas during the ozone seasons requires nationwide expenditures during all seasons of the year, including expenditures year-round in areas currently in attainment with the current standard. These nationwide emission reductions—including emission reductions outside of nonattainment areas and out of the ozone season—may or may not contribute to efforts to limit ozone in nonattainment areas, depending on whether they participate in ozone transport from one area to another. One example of the application of this method is presented in a December 21, 1993, draft Regulatory Impact Analysis developed by the EPA's Office of Mobile Sources (OMS) in which control of emissions from refueling of light duty vehicles (i.e., onboard refueling vapor recovery, or ORVR) could viably be applied either nationwide or in nonattainment areas alone. In this example, regional regulation represented an important alternative to national regulation. The OMS calculated cost-effectiveness using (1) nationwide costs and nationwide emission reductions, as well as (2) nationwide costs and the emission reductions achieved in nonattainment areas.

Emissions from automobile refinish coatings used in nonattainment areas have been estimated. On a nonattainment area basis, the cost-effectiveness of the proposed automobile refinish coatings rule would be $300/Mg ($280/ton). A similar calculation could be done to account for the seasonality of ozone formation.

While such an approach offers a measure of the cost of emission reductions in nonattainment areas, EPA sees significant drawbacks to this approach. First, cost-effectiveness figures would no longer provide a consistent basis for comparison of the relative cost of different control measures or regulations considered at different points in time. Because the number and location of nonattainment areas changes frequently, the initial

calculation of the cost-effectiveness of a rule would depend upon when it was issued. The EPA believes it is important that cost-effectiveness be calculated in a consistent manner that allows for valid comparisons. Also, introducing new methodology would tend to make new control measures appear superficially to be less cost-effective than measures utilized in the past, simply because of a change in well-established terminology.

Second, this alternative approach attributes all costs of the rule to emission reductions achieved in nonattainment areas and no cost to emission reductions achieved in attainment areas. By not including emission reductions in attainment areas, the methodology assumes that emission reductions in areas which attain the NAAQS for ozone have no value. In fact, attainment areas often contribute to pollution problems in nonattainment areas through the transport of emissions downwind. Also, emission reductions in attainment areas help to maintain clean air as the economy grows and new pollution sources come into existence. Furthermore, measures to reduce emissions of VOC often reduce emissions of toxic air pollutants.

Another alternative that has been suggested would be to calculate not only the emission reductions but also the cost if the requirements applied only in ozone nonattainment areas, perhaps through issuance of a Control Techniques Guideline (CTG). The EPA has not estimated the cost of using a CTG to regulate only those products sold for use in ozone nonattainment areas.

The EPA is planning to review internally the generic question of the alternative approach to measuring costs against emission reductions. The results of this review are not available for incorporation into this rulemaking. Therefore, the EPA requests comments on the traditional and alternative methods discussed above to characterize the cost-effectiveness of this and other Section 183(e) regulations.

V. Rationale

The following sections explain the rationale for selecting the proposed standards.

A. Applicability

This proposed rule applies to automobile refinish coatings that are manufactured or imported for sale or distribution in the United States. Coatings that are currently used for automobile refinishing are also used outside the automobile refinish industry. In fact, some of these coatings are not labeled specifically as automobile refinish coatings, but are labeled generally as primers, basecoats, etc. This proposed rule applies only to those coatings that are marketed as automobile refinish coatings. Therefore, coating manufacturers define which of their coatings are automobile refinish coatings by the way they market them. All coatings marketed as automobile refinish coatings are subject to this proposed rule; all other coatings are not.

Automobile refinish coatings were determined to be a significant source of VOC emissions in nonattainment areas and were designated for regulation under the authority of section 183(e) of the Act. The proposed standards do not apply to some types of coatings. There are exemptions for exported coatings, coatings manufactured or imported before the compliance date, coatings that are sold in nonrefillable aerosol containers, and coatings that are manufactured for use by original equipment manufacturers (OEM's) for assembly-line coating operations.

The purpose of section 183(e) of the Act is to control VOC emissions that contribute to ozone nonattainment in the United States. Because exported coatings do not contribute to VOC emissions in the United States, and because EPA has no legal or factual basis to impose VOC control measures outside the United States, coatings manufactured for the explicit purpose of export, and which are in fact exported, are exempt from the requirements of the proposed rule.

An exemption for coatings sold in nonrefillable aerosol containers is included in the proposed rule because the EPA is developing a separate VOC regulation for these coatings under section 183(e) authority.

Coatings that are manufactured for use by OEM's for assembly-line coating operations are exempt from this proposed rule because such coatings are significantly different than refinish coatings; OEM's are covered by standards promulgated under section 111 of the Act, and will be covered by standards promulgated under section 112 of the Act.

Each coating manufacturer produces coating components, such as hardeners, reducers, additives, etc., necessary for the preparation of a ''ready-to-spray'' coating. Some coating manufacturers also produce components for use in the coatings of other manufacturers; some companies do not produce coatings at all, but produce only coating components for use in the coatings of other manufacturers. Although preparing a coating using only the components and suggested mixing ratio of one manufacturer may yield a compliant coating, preparing a coating with the components of several manufacturers may not. To be effective, this proposed rule may need to apply to all coating components; that is, if a coating component manufacturer suggests that a coating component may be used for automobile refinishing, and if its suggested use would result in the preparation of a noncompliant coating, then the coating component manufacturer would be out of compliance with the rule. Until recently the EPA was not aware of the extent to which coating users combined the components of multiple manufacturers. As a result, the EPA has not sufficiently examined how to enforce this proposed rule if its applicability were expanded to include all automobile refinish coating components, or the impacts that the rule would have on the manufacturers who would become affected by the rule if its applicability were expanded. The EPA has, therefore, limited applicability to coating manufacturers in this proposed rule, but is soliciting comments on whether to expand the applicability. Based on information received during the comment period, the EPA may expand the applicability in the promulgated rule.

The EPA is aware that the VOC content standards of this proposed rule would likely prohibit the manufacture or import of lacquer coatings. Lacquers are no longer used on new vehicles, and are mainly used by antique car restorers; therefore, the demand for lacquers is small and is likely to decrease. Although other coatings are compatible with lacquers and may be used to refinish an existing lacquer finish, some colors available in lacquer are not available in other coatings. Since the production of lacquer topcoats is small and not likely to increase, and since they may be necessary to fill a niche in automobile refinishing, the EPA is considering exempting lacquer topcoats from the proposed rule. Although lacquer topcoat use is not likely to increase, an exemption would not prevent it. Therefore, the EPA is also considering whether to include lacquer topcoats in the specialty coating category (described in section IV.B.) and limit their production to a small percentage of total automobile refinish coating production. The EPA solicits comments on these issues in section IV.H.; based on information received during the public comment period, the EPA may, in the promulgated rule, either exempt lacquer topcoats, or

categorize them as specialty coatings and limit their production.

B. Selection of BAC

The primary factors considered in determining best available controls (BAC) were technological and economic feasibility, and environmental impacts. Other impacts, such as nonair environmental impacts (solid waste and water) and energy impacts, are expected to be minimal. Health impacts are expected to parallel environmental impacts in terms of directional benefit (i.e., as environment improves, health improves). The EPA relied on existing State and local automobile refinish rules, coating product information, and input from the automobile refinish industry to determine the availability and technological and economic feasibility of coatings.

The BAC selection process involves both the selection of coating categories and the determination of VOC content limits for those categories. These components are linked in a determination of what degree of emissions reduction represents BAC. Decisions to subdivide a given category into more specific ''subcategories'' can be a direct consequence of the VOC content levels under consideration. For example, pretreatment wash primers etch bare metal surfaces to provide adhesion of the coating to the metal. According to coating product information there are no pretreatment wash primers that have VOC content levels as low as other primers. Therefore, a subcategory was created for this primer, along with a VOC content level different from the general primer category. Similarly, a subcategory was created for topcoats of three (or more) stages because coating information indicates that there are no such coatings with VOC content levels as low as those of other topcoats.

''Specialty coatings'' that serve specific functions and that either do not belong in other coating categories or are not available at the VOC content limits of those categories are included in a separate category. This category includes coatings that are designed for a specific use, and coatings of other categories that are modified by changing the components of the coating. In this proposed rule, all coatings that the EPA considers specialty coatings are defined. It may not be possible to determine all of the specialty coatings that may be needed in the future as new OEM coatings are developed; therefore, an open-ended definition of specialty coatings is desirable. However, such a definition could be abused by simply renaming existing coatings as specialty coatings. Even with a closed definition, the specialty coating category may have undesirable effects. For example, an elastomeric coating is a specialty coating. Some flexible topcoats, which are considered elastomeric coatings, are prepared simply by adding a flexible hardener in place of the normal hardener. In this case, the specialty coating category would allow topcoats to be used that exceed the VOC content standard for topcoats.

Limiting the production of specialty coatings to a small percentage of total automobile refinish coating production may be effective in minimizing the problems associated with this category. However, as mentioned above, some specialty coatings are just modifications of other coatings, and it is unclear what the EPA would be limiting. Limiting specialty coating production to a percentage of total production would adversely affect manufacturers that are mainly in the specialty coating business. The EPA is considering limiting the production of specialty coatings, and is soliciting comments on how to determine such limits and how they can be made enforceable. Based on information received during the public comment period, the EPA may include specialty coating production limits in the promulgated rule.

The process of determining BAC began with the examination of State and local automobile refinish rules. The EPA focused on existing coating categories and their associated VOC standards in State and local rules to determine which categories and VOC content limits might constitute the degree of emissions reduction that represents BAC. Specifically, California rules were analyzed because California has been regulating automobile refinish coatings for several years and generally has the most stringent VOC standards in the country.

The VOC limits of California rules are typically met with waterborne coatings. Coating manufacturers have stated that they would need to modify their production facilities to supply the entire country with waterborne coatings. Such modifications reportedly include the replacement of carbon steel equipment with corrosion-resistant materials. Although not usually necessary in the relatively dry climate of California, in some geographic areas of the country waterborne coatings would likely require forced drying with supplemental heating equipment (such as heated spray booths or infrared heating lamps) because of their longer drying times.

In geographic areas without existing automobile refinish rules, solventborne coatings are typically used that have relatively high VOC content levels; these coatings are sometimes referred to as ''conventional'' coatings. Conventional coatings are typically fast-drying and, therefore, do not need to be force-dried. There is not a continuous spectrum of coating VOC content levels; coatings with the lowest VOC content levels (such as waterborne coatings) were developed to comply with State and local rules. Conventional coatings (that have the highest VOC content levels) were developed to satisfy the demand for fast-drying coatings that are easy to use. However, between these extremes there exist coatings that have VOC content levels that are lower than those of conventional coatings, that are not significantly harder to use or slower to dry than conventional coatings, and that do not require the forced drying or extensive coating manufacturer process modifications of the coatings with the lowest VOC content levels. The VOC content limits that are being proposed as BAC in this proposed rule are based on such ''medium-solids'' coatings.

The EPA considered proposing a VOC content standard of 550 grams per liter for primers and primer surfacers. Coating product information indicates that coatings at this level are available. However, primers at this level are not tintable according to the information available to the EPA. Tintable primers are available with a VOC content of 575 grams per liter. When tintable primers are used, less topcoat needs to be applied because the tint of the primer assists in achieving the final color desired. Since less topcoat is used when tintable primers are used, and since the VOC content of topcoats are generally higher than 550 grams per liter, VOC emissions reductions are expected to be equal or greater when tintable primers are used. The EPA is therefore proposing a 575 grams per liter standard for primers and primer surfacers. Comments on the proposed standard for primers and primer surfacers are solicited in section IV.H.

Since most of the nation uses conventional coatings, these coatings provide a reference point from which to assess technological and economic feasibility. The emissions reductions and cost impacts of regulatory alternatives considered by the EPA are given in table 2.

TABLE 2.—IMPACTS OF REGULATORY ALTERNATIVES

Regulatory alternative	Emissions reductions* Mg/yr	Capital costs 10^6 $	Annual costs 10^6 $	Cost effectiveness $/Mg	Incremental cost effectiveness $/Mg
BAC	32,500	32	5	140	.....
Beyond BAC	36,800	240	34	930	6900

* Baseline emissions are 88,500 Mg/yr.

As previously mentioned, medium-solids coatings do not need to be force-dried, and the process modifications of coating manufacturing facilities necessary to produce such coatings nationwide are less extensive than those needed to produce waterborne coatings. The capital cost associated with the use of medium-solids coatings is about 4.5 million dollars; about 60% of the cost is for the training of coating manufacturer and distributor representatives and shop personnel in the use of lower-VOC coatings. The cost effectiveness of using medium-solids coatings is about $140 per megagram; the incremental emissions reductions that would be achieved by going beyond (or lower than) the VOC content limits of medium-solids coatings would cost about $6900 per megagram. Most of this cost (60%) is from the purchase by body shops of additional heating equipment necessary to speed the drying of the coatings to avoid losses in productivity. Because of these high incremental costs, the EPA selected the VOC content limits in Table 1 as BAC.

C. Selection of Regulatory Format

In contrast to traditionally regulated stationary sources that emit VOC at a specific fixed location (e.g., a manufacturing plant), VOC from automobile refinish coatings are emitted wherever the products are used. For this reason, regulating at the manufacturer and importer level is the most efficient and least burdensome method of regulating the VOC content of coatings, and would ultimately impact the VOC content of automobile refinish coatings at the distributor and end user level.

The framework EPA chose to implement BAC is VOC content standards. Coatings manufactured or imported on or after the effective date must comply with the VOC content standards. The EPA will continue to gather data with which to evaluate the potential for further emissions reductions or alternate frameworks for implementing BAC such as economic incentive-type approaches.

D. Labeling Requirements

The proposed regulation requires that containers for all subject coatings display on the label or lid the date of manufacture or a code indicating the date of manufacture. This information allows enforcement personnel to determine whether a coating was manufactured before or after the compliance date.

E. Selection of Reporting Requirements

The EPA evaluated what reported information would be sufficient to ensure compliance with VOC standards within the proposed rule. The reporting requirements proposed are necessary to allow determination of compliance, and the EPA believes they do not represent an undue burden on manufacturers or importers of automobile refinish coatings. Compliance with this rule will be determined by periodic random testing (EPA Reference Method 24, described below). Therefore, beyond the initial report, which serves to identify all manufacturers and importers of automobile refinish coatings, there are no reporting provisions in this rule (except for reports explaining any new date codes and for variances).

F. Variance

The proposed rule includes a variance provision whereby manufacturers and importers of subject automobile refinish coatings may apply to the Administrator for a temporary variance from compliance with the standards. A variance will be granted if the applicant demonstrates that compliance would result in economic hardship, and that granting the variance would better serve the public interest than would requiring continuous compliance under the conditions of economic hardship. The EPA intends for this provision to allow manufacturers and importers some flexibility in responding to unforeseen circumstances that may cause additional, unanticipated compliance burden. The EPA recognizes that certain interruptions in the availability of raw materials and or manufacturing processes may affect the manufacturer's or importer's ability to continuously comply with the standards. In particular, the EPA anticipates that this variance provision will help to mitigate impacts to small manufacturers. Small manufacturers are likely to have fewer research and development resources, and, therefore, will benefit from the allowed variance.

G. Test Methods

Under the proposed provisions, compliance with the VOC content standards is based on the EPA's Reference Method 24. This test method represents the EPA's approved protocol for determining the VOC content of coatings and is EPA's standard test method for determining the VOC content of coatings.

Standard language allowing use of alternative methods of determining VOC content subject to the Administrator's approval is also included in the proposed rule.

H. Solicitation of Comments

The Administrator welcomes comments from interested persons on any aspect of the proposed rule, and on any statement in the preamble or the referenced supporting documents. The proposed rule was developed on the basis of information available to the EPA. The Administrator is specifically requesting factual information that may support either the approach taken in the proposed standards or an alternate approach.

The EPA is requesting specific comments and data on several aspects of the proposed rule: (1) Alternative approaches to regulation; (2) expanding the applicability of the rule to include all automobile refinish coating components; (3) limiting production of lacquer topcoats, or exempting lacquer topcoats from the rule; (4) determining and enforcing specialty coating production limits; and (5) the technical and economic feasibility of VOC content levels that are higher or lower than the 575 grams/liter standard for primers and primer surfacers.

The EPA anticipates promulgating this rule on an expedited schedule. This will benefit States for which VOC reductions from automobile refinish coating are critical to their 15 percent rate-of-progress plans, and help minimize the patchwork of individual State automobile refinish coating rules across the country.

Comments submitted to the Administrator should contain specific proposals and supporting data to allow the EPA to fully evaluate the comments. Recommended changes to any of the VOC content standards presented in this proposal should include sufficient information for the EPA to evaluate the technological and economic feasibility associated with such changes. Applicable dates and addresses for the submission of comments are included at the beginning of this preamble.

VI. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to provide opportunity for interested persons to make oral presentations regarding the proposed regulation in accordance with section 307(d)(5) of the Act. Persons wishing to make oral presentation on the proposed regulation for automobile refinish coatings should contact the EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Air Docket Section at the address given in the **ADDRESSES** section of this preamble and should refer to Docket No. A–95–18.

A verbatim transcript of the hearing and written statements will be available for inspection and copying during normal business hours at the EPA's Air Docket Section in Washington, DC (see **ADDRESSES** section of the preamble).

B. Executive Order 12866

Under Executive Order 12866, the Agency must determine whether a regulatory action is ''significant'' and therefore subject to Office of Management Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of the Executive Order, the OMB has notified the EPA that it considers this a ''significant regulatory action'' within the meaning of the Executive Order. The EPA submitted this action to the OMB for review. Any written comments from the OMB to the EPA and any written EPA response to those comments will be included in Docket No. A–95–18, listed at the beginning of this notice under **ADDRESSES.**

C. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. __) and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2136); 401 M Street, S.W.; Washington, DC 20460, or by calling (202) 260–2740.

Pursuant to Section 183(e) of the Act, the proposed rule regulates VOC emissions from automobile refinish coatings. The only information collection requirements of the proposed rule are for labeling and reporting. To determine whether a coating is manufactured before or after the compliance date of the rule, the date of manufacture, or code representing the date, must appear on the coating container. Coating manufacturers currently include this information on coating containers. The proposed rule requires all coating manufacturers to submit an initial report containing their name and mailing address, and an explanation of coating date codes, if codes are used to represent the date of coating manufacture. Reporting beyond the initial report is required only for the explanation of any new date codes used by coating manufacturers, and for requests for variances. The information to be reported is not of a sensitive nature.

The EPA estimated the cost and hour burden of the information collection requirements of the proposed rule. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The initial report must be submitted by all coating manufacturers. Averaged over a 3 year period, EPA estimates that the initial report will require 8 hours to complete, and will be submitted by 10 respondents annually. Beyond the initial report, EPA estimates that 3 respondents per year will spend 2 hours each reporting the explanations of any new date codes used. The total annual cost of the reporting requirements of the proposed rule is $3,200.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2136); 401 M St., S.W.; Washington, D.C. 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, D.C. 20503, marked ''Attention: Desk Officer for EPA.'' Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after April 30, 1996, a comment to OMB is best assured of having its full effect if OMB receives it by May 30, 1996. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires EPA to consider potential impacts of proposed regulations on small business ''entities.'' A regulatory flexibility analysis (RFA) is required if preliminary analysis indicates ''a significant economic impact on a substantial number of small entities.''

Shops in the autobody refinish industry are classified as small by the U.S. Small Business Administration if the entity that owns the shop has total sales of less than $3.5 million. Most individual shops are small by this criterion if the owning entity has no other sales from other shops. Therefore, an RFA was performed and is contained in the docket for this proposed rule. Information on the size of manufacturers and distributors impacted by this rule is not available, but some small entities among manufacturers and distributors may also be affected.

Several industry trade associations, including the Automotive Service Association (ASA) that represents body shops, and the Automotive Service Industry Association (ASIA) that represents coating distributors, have submitted comments and provided information during the development of the national rule. Most of the members of these associations are small businesses. The main concerns of these associations deal with recordkeeping and VOC content limits. Some members of ASA are already subject to State rules that contain VOC content limits and recordkeeping at the body shop. The drying times of some coatings compliant with State rules are significantly longer than those of conventional coatings, which can result in losses in body shop productivity. Some shops report that the recordkeeping required under some rules is burdensome and time consuming.

The proposed national rule applies to automobile refinish coating manufacturers and importers only, not to body shops or any other users of the coatings. After the national rule is effective, only compliant coatings will be available for purchase by coating users in this country. Since the purpose of most State recordkeeping requirements is to demonstrate that body shops are using compliant coatings, some States may decide to remove such requirements from their rules after the national rule is effective.

Coatings compliant with the proposed rule do not take significantly longer to dry than conventional coatings; therefore, small shops will be able to apply compliant coatings without purchasing additional equipment.

E. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') (signed into law on March 22, 1995) requires that the Agency prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because the proposed rule is estimated to result in expenditure by State, local, and tribal governments or the private sector of less than $100 million in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments.

List of Subjects in 40 CFR Part 59

Environmental protection, Air pollution control, Automobile refinish coatings, Consumer and commercial products, Ozone, Volatile organic compound.

Dated: April 19, 1996.

Carol M. Browner,

Administrator.

[FR Doc. 96–10381 Filed 4–29–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 96–85, FCC 96–154]

Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission has adopted an Order and Notice of Proposed Rulemaking regarding implementation of the Cable Act reform provisions of the Telecommunications Act of 1996 (''1996 Act''). The Order segment of this action may be found elsewhere in this issue of the Federal Register. This Notice of Proposed Rulemaking (''NPRM'') solicits comment on several issues arising from the enactment of the 1996 Act. This NPRM solicits comment regarding possible revisions to the interim final rules established in the companion Order and requests comment on other issues critical to the 1996 Act's implementation. The intended effect of this action is to develop rules that fully implement the mandates of the 1996 Act with regard to cable television.

DATES: Comments filed in response to this NPRM must be filed by May 28, 1996. Reply Comments are due June 28, 1996. Written comments by the public on the proposed and/or modified information collections are due on or before May 28, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before July 1, 1996.

ADDRESSES: An original and six copies of comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, NW., Room 222, Washington, DC 20554, with a copy to Nancy Stevenson of the Cable Services Bureau, 2033 M Street, NW., Room 408A, Washington, DC 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, NW., Room 239, Washington, DC 20554.

In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, NW., Washington, DC 20054, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, NW., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Tom Power, Paul Glenchur, or Nancy Stevenson, Cable Services Bureau, (202) 416–0800. For additional information concerning the information collections contained in this NPRM contact Dorothy Conway at 202–418–0217, or via the Internet at dconway@fcc.gov.