



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2009-0541; A-1-FRL-9932-46-Region 1]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Rhode Island Low Emission Vehicle Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Rhode Island Department of Environmental Management. The regulations adopted by Rhode Island include the California Low Emission Vehicle (LEV) II light-duty motor vehicle emission standards effective in model year 2008, the California LEV II medium-duty vehicle standards effective in model year 2009, and greenhouse gas emission standards for light-duty motor vehicles and medium-duty vehicles effective with model year 2009. The Rhode Island LEV regulation submitted also includes a zero emission vehicle (ZEV) provision. Rhode Island has adopted these revisions to reduce emissions of volatile organic compounds (VOC) and nitrogen oxides (NO_x) in accordance with the requirements of the Clean Air Act (CAA), as well as to reduce greenhouse gases (carbon dioxide, methane, nitrous oxide, and hydrofluorocarbons). In addition, Rhode Island has worked to ensure that their program is identical to California's, as required by the CAA. These actions are being taken in accordance with the CAA.

DATES: This rule is effective on **[Insert date 30 days from date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2009-0541. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square - Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, RI 02908-5767.

FOR FURTHER INFORMATION CONTACT: Ariel Garcia, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05-2), Boston, MA 02109-3912, telephone number (617) 918-1660, fax number (617) 918-0660, email garcia.ariel@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. Background and Purpose
- II. Final Action
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

I. Background and Purpose

On June 4, 2015 (80 FR 31867), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Rhode Island. The NPR proposed approval of Rhode Island’s amended Air Pollution Control Regulation No. 37 (APCR No. 37), “Rhode Island’s Low Emission Vehicle Program.” Rhode Island’s amended APCR No. 37, with an effective date of December 22, 2005, adopts the California LEV II program. Rhode Island first adopted California’s LEV I program standards on June 6, 1996. In 1999, APCR No. 37 was amended to allow automobile manufacturers to comply with the National Low Emission Vehicle (NLEV) program in lieu of complying with the California LEV program. In 2004, Rhode Island adopted California’s LEV II standards. In September 2005, California amended their LEV II standards to include standards for greenhouse gas emissions to apply to model year 2009 and later vehicles.

On December 22, 2005, Rhode Island made the following amendments to APCR No. 37: adopted California LEV II emission standards and related provisions for medium-duty vehicles

commencing with the 2009 model year, adopted recently announced revisions concerning LEV II greenhouse gas emission standards and related provisions for passenger cars, light-duty trucks, and medium-duty passenger vehicles commencing with the 2009 model year in accordance with section 177 of the CAA, and provided additional clarification and flexibility with respect to the implementation of the zero emissions vehicle (ZEV) program in Rhode Island.

A detailed discussion of Rhode Island's September 5, 2008 SIP revision and EPA's rationale for proposing approval of the SIP revision were provided in the NPR and will not be restated here. No public comments were received on the NPR.

II. Final Action

EPA is approving Rhode Island's Low Emission Vehicle Program as a revision to the Rhode Island SIP. Specifically, EPA is incorporating into the SIP Rhode Island Air Pollution Control Regulation No. 37, "Rhode Island's Low Emission Vehicle Program," effective in the State of Rhode Island on December 22, 2005.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference Rhode Island's revised Air Pollution Control Regulation No. 37 described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the**

Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 22, 2015.

H. Curtis Spalding,
Regional Administrator,
EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52— APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart OO - Rhode Island

2. In § 52.2070, the table in paragraph (c) “EPA-Approved Rhode Island Regulations”, is amended by revising the entry for the state citation “Air Pollution Control Regulation 37” to read as follows:

§ 52.2070 Identification of plan.

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(c) * * *

EPA—APPROVED RHODE ISLAND REGULATIONS

| State citation | Title/subject | State effective date | EPA approval date | Explanations |
|--------------------------------------|--|-----------------------------|---|-------------------------------------|
| ** | * | * | * | ** |
| Air Pollution Control Regulation 37. | Rhode Island’s Low Emission Vehicle Program. | 12/22/2005 | [Insert Federal Register date of publication] [Insert Federal Register citation] | Adopts California LEV II standards. |
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