



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2017-0025; FRL-9968-09-Region 1]

Air Plan Approval; Rhode Island; Reasonably Available Control Technology for US Watercraft, LLC

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. The revision consists of a reasonably available control technology (RACT) approval for a volatile organic compound (VOC) emission source in Rhode Island, specifically, US Watercraft, LLC. This action is being taken in accordance with the Clean Air Act (CAA).

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

ADDRESSES: EPA has established a docket for this action under Docket Identification No.

EPA-R01-OAR-2017-0025. All documents in the docket are listed on the

<http://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 at

<http://www.regulations.gov> or 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.

FOR FURTHER INFORMATION CONTACT: David L. Mackintosh, 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, tel. 617-918-1584, email Mackintosh.David@epa.gov.

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

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I. Background and Purpose

On July 3, 2017, EPA published a Notice of Proposed Rulemaking (82 FR 30815) and Direct Final Rulemaking (DFRN) (82 FR 30747) proposing to approve and approving, respectively, a RACT approval for a VOC emission source in Rhode Island, specifically, US Watercraft, LLC. The RACT approval was submitted by the Rhode Island Department of Environmental Management (RI DEM) to EPA as a SIP revision on August 8, 2003, which was amended on February 20, 2004. In the DFRN, EPA stated that if an adverse comment were to be submitted

to EPA by August 2, 2017, the action would be withdrawn and not take effect, and a final rule would be issued based on the NPR. EPA received one adverse comment prior to the close of the comment period. Therefore, EPA withdrew the DFRN on September 1, 2017 (82 FR 41526).

This action is a final rule based on the NPR.

A detailed discussion of Rhode Island's August 8, 2003 SIP revision and February 20, 2004 amendment, and EPA's rationale for approving the SIP revision were provided in the DFRN and will not be restated here, except to the extent relevant to our response to the public comment we received.

II. Response to Comment

EPA received one adverse comment on its July 3, 2017 (82 FR 30815) Notice of Proposed Rulemaking.

Comment: The commenter raised concerns that the rulemaking identified TPI Composites, Inc. (TPI) as being owned and operated by US Watercraft Inc., and asserted that TPI is an entirely independent and separate corporate entity from US Watercraft, LLC with no common ownership or control of operations between the two companies. The commenter also stated that US Watercraft, LLC purchased and now owns the fiberglass boat manufacturing processes covered by the RACT approval and that TPI is not conducting fiberglass boat manufacturing operations at 373 Market Street in Warren, Rhode Island.

Response: It was not EPA's intention to describe TPI as being owned and operated by US Watercraft, LLC. EPA agrees that the RACT approval being approved into the RI SIP only applies to the fiberglass boat manufacturing operations located at 373 Market Street in Warren, Rhode Island, which are currently known to be owned and operated by US Watercraft, LLC as

referenced in the US Watercraft, LLC Operating Permit Number RI-39-09(R1) issued by the RI DEM on April 24, 2009.

III. Final Action

EPA is approving, and incorporating into the Rhode Island SIP, a RACT approval effective July 16, 2003, and a RACT approval amendment effective February 11, 2004, for US Watercraft, LLC. The RACT approval and amendment were submitted by the RI DEM to EPA as a SIP revision on August 8, 2003, and February 20, 2004, respectively. EPA is also removing the previously approved consent agreement File No. 90-1-AP issued to TPI from the Rhode Island SIP.

It should be noted that subsequent to RI DEM's submittal of its SIP revision and amendment in 2003 and 2004, respectively, EPA later issued a Control Techniques Guidelines (CTG) for Fiberglass Boat Manufacturing Materials on October 7, 2008 (73 FR 58481). RI DEM has not yet addressed this CTG. On February 3, 2017 (82 FR 9158), EPA issued a Findings of Failure to Submit State Implementation Plan Submittals for the 2008 Ozone National Ambient Air Quality Standards for Rhode Island's failure to submit a SIP revision to satisfy the 2008 CTG for Fiberglass Boat Manufacturing Materials.

At this time, EPA is taking no action with regard to Rhode Island's obligation to address the 2008 CTG for Fiberglass Boat Manufacturing Materials since Rhode Island has not yet taken formal action to address this CTG. With this action, we are approving the revised RACT approval for US Watercraft as meeting CAA section 110(l) because the SIP revision will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. Moreover, approving this RACT approval into the Rhode Island SIP will strengthen the SIP as it is designed to control VOC emissions.

However, Rhode Island is still obligated to submit a formal SIP revision to EPA detailing how the State is addressing the Fiberglass Boat Manufacturing Materials CTG for any and all sources in the State covered by that CTG.

IV. 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 of the RACT Approval for US Watercraft, LLC described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov, and/or at the EPA Region 1 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

V. 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. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

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 **[insert date 60 days after date of publication 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 7, 2017.

Deborah A. Szaro,
Acting 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 (d) is amended by:

- a. Removing the entry “Tillotson-Pearson in Warren, Rhode Island”.
- b. Adding the entry “US Watercraft, LLC in Warren, Rhode Island” to the end of the table.

The addition reads as follows:

§52.2070 Identification of plan.

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(d) * * *

EPA-Approved Rhode Island Source Specific Requirements

Name of source	Permit No.	State effective date	EPA approval date	Explanations
**	*	*	*	**
US Watercraft, LLC in Warren, Rhode Island	File No. 01-05-AP	7/16/2003 and 2/11/2004	[insert date of publication in the Federal Register], [insert Federal Register citation]	VOC RACT approval and amendment

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[FR Doc. 2017-20164 Filed: 9/20/2017 8:45 am; Publication Date: 9/21/2017]