



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2018-0098; FRL-9978-71-Region 1]

Air Plan Approval; Rhode Island; Control of Volatile Organic Compound Emissions, Control of Nitrogen Oxide Emissions, and Sulfur Content of Fuels

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision updates Rhode Island Air Pollution Control Regulations (APCRs) for volatile organic compound (VOC) emissions, nitrogen oxide (NO_x) emissions, sulfur content in fuel requirements and associated general definitions. The intended effect of this action is to propose approval of the revised regulations. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before **[Insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R01-OAR-2018-0098 at www.regulations.gov, or via email to Mackintosh.David@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio,

video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit www.epa.gov/dockets/commenting-epa-dockets.

Publicly available docket materials are available at 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 February 10, 2017, the Rhode Island Department of Environmental Management (DEM) submitted to EPA a State Implementation Plan (SIP) revision containing six revised Air Pollution Control Regulations (APCRs): No. 8, “Sulfur Content of Fuels;” No. 19, “Control of Volatile Organic Compounds from Surface Coating Operations;” No. 27, “Control of Nitrogen Oxide Emissions;” No. 35, “Control of Volatile Organic Compounds and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations;” No. 36, “Control of Emission from Organic Solvent Cleaning;” and General Definitions. The amended APCR became effective in Rhode Island on January 9, 2017.

EPA has previously approved these Rhode Island APCR into the Rhode Island SIP. APCR No. 8, “Sulfur Content of Fuels,” was last approved on October 7, 2015 (80 FR 60541), APCR No. 19, “Control of Volatile Organic Compounds from Surface Coating Operations,” on July 22, 2016 (81 FR 47708), APCR No. 27, “Control of Nitrogen Oxide Emissions,” and APCR No. 35. “Control of Volatile Organic Compounds and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations,” on July 22, 2016 (81 FR 47708), APCR No. 36, “Control of Emission from Organic Solvent Cleaning,” on March 13, 2012 (77 FR 14691), and APCR General Definitions on March 13, 2012 (77 FR 14691).

II. EPA’s Evaluation of the Submittal

Rhode Island’s submittal states that RI DEM has revised APCR No. 8, “Sulfur Content of Fuels,” to correct a mistake made when it revised the regulation in 2014. The purpose of the 2014 revision was to limit the sulfur content of certain fuel oils, which the regulation divided into two categories—“Distillate Oil, Biodiesel, or Alternative Fuel” and “Residual Oil”—

establishing lower limits for the first category than for the second. The submittal states that the placement of alternative fuel in the same category as distillate oil and biodiesel in the 2014 revision was in error and that it should have been included with residual oil. Sometime after the 2014 revision was incorporated into the SIP, the mistake was brought to RI DEM's attention along with documentation that showed it is not possible to achieve equally low-sulfur limits for waste oils¹ and distillate fuel oils, because waste oils are generally comprised of used residual oil, which has an inherently higher sulfur content than distillate oil. The different sulfur levels stem from the distillation of crude oil during refinement and are inherent to the various fractions of crude oil. Therefore, the agency agrees that compliance with the current version of APCR No. 8, "Sulfur Content of Fuels," is not technically feasible and that placing alternative fuel in the lower sulfur level grouping was incorrect. This proposed action corrects the mistake, moving alternative fuel from the first category (with distillate oil and biodiesel) into the second (with residual oil), effectively allowing a higher sulfur content for alternative fuel.

EPA proposes to replace the previously approved version of APCR No. 8 with the version submitted by Rhode Island on February 10, 2017. EPA proposes to approve APCR No. 8 into the SIP, with the exception of Sections 8.7, "Fuel Supply Shortages," and 8.8.3, "Application," which were not submitted by the state. Although Section 8.8.3 had been previously approved into the SIP, EPA requested that the state strike this section when submitted as a SIP revision for the reasons indicated in the response to comments document included with the state's submittal, a copy of which is included in the docket for today's proposal. Therefore, this action will remove Section 8.8.3 from the SIP.

RI DEM has updated APCR No. 19, "Control of Volatile Organic Compounds from Surface Coating Operations," to acknowledge that the emission limitations in this regulation do not apply

¹ Pursuant to state regulations, "waste oil" is a type of "alternative fuel." APCR No. 8.1.1; *see also* APCR No. 20.1.1.

if the source is controlled by the emission limit requirements in APCR No. 44, “Control of Volatile Organic Compounds from Adhesives and Sealants.” This change is consistent with the EPA Control Technique Guidelines (CTGs) for coating operations and industrial adhesives (EPA-453/R-08-005, September 2008), which consider a VOC source to be subject to the requirements of only one CTG with respect to VOC Reasonably Available Control Technology (RACT). Additionally, RI DEM revised the registration requirements in APCR No. 19 to be consistent with the requirements in APCR No. 14, “Record Keeping and Reporting,” requiring emission statements to be submitted by April 15th of each year instead of “within 45 days of the end of the calendar year.” EPA proposes to approve APCR No. 19 into the SIP, excluding Section 19.2.2, which was not submitted by the state.

RI DEM has revised APCR No. 27, “Control of Nitrogen Oxides Emissions,” to reduce the frequency of compliance testing required under the regulation from annually to once every five years, reduce the frequency of tune-ups required for industrial-commercial-institutional boilers from annually to biennially, allow the tune-up procedure for boilers specified in federal regulations (40 CFR 63, Subpart JJJJJ) as an acceptable substitute procedure for the procedure specified in Appendix A of the regulation, and revise the method for determining compliance with the emission limits to allow compliance to be demonstrated based upon the average results of three one-hour test runs (rather than demonstrating compliance with each individual test run) to be consistent with federal requirements. EPA proposes to approve APCR No. 27 into the SIP, excluding Section 27.7.3, which was not submitted by the state.

RI DEM has revised APCR No. 35, “Control of Volatile Organic Compounds and Volatile Hazardous Air Pollutants (HAP) from Wood Products Manufacturing Operations,” so the HAP applicability threshold applies to major source of HAP from wood products manufacturing

operations, as opposed to all operations at the facility. EPA proposes to approve APCR No. 35 into the SIP, excluding Sections 35.2.3 and 35.9.3, which were not submitted by the state.

RI DEM has revised APCR No. 36, “Control of Emissions from Organic Solvent Cleaning,” to provide an exemption from most requirements for small cold cleaners (internal volume of 1 liter or less), provide an alternative means of compliance for spray gun cleaning operations, clarify the performance standard when an air pollution control system is used as an alternative to low vapor pressure solvents, and revise recordkeeping requirements to allow users of certain machines additional time to compile monthly records to be consistent with the requirements in other Rhode Island APCR regulations and permits. EPA is proposing to approve APCR No. 36 into the SIP, with the exception of Sections 36.2.2 and 36.14.2, “Application,” which Rhode Island did not submit to EPA. Although Section 36.14.2 was previously approved into the SIP, today’s proposal would remove it from the SIP for similar reasons discussed earlier with respect to Section 8.8.3.

Finally, RI DEM has revised APCR General Definitions to amend the definition of “volatile organic compound” to be consistent with the EPA definition at 40 CFR 51.100(s). EPA is proposing to approve the revised definition of “volatile organic compound” into the SIP.

The above revisions satisfy section 110(*l*) of the CAA, which prohibits EPA from approving a SIP revision “if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress...or any other applicable requirement of [the Clean Air Act].” In particular, many of the revisions to APCR Nos. 19, 27, and 36, including changes to reporting dates, tune-up procedures and frequency, and compliance methods and testing frequency, do not impact emission control requirements and will not affect emissions or ambient concentrations of a pollutant or its precursors. With respect to the revision to APCR No. 8, as noted earlier, the current standard for alternative fuel, was not obtainable, meaning that the

revision will not affect actual sulfur content or emissions. Furthermore, Rhode Island is currently designated as attainment for all criteria pollutants, and levels of sulfur dioxide, PM_{2.5}, and PM₁₀, which can be affected by the sulfur content of fuel in general, are well below those standards. This regulatory change will therefore not interfere with maintenance of the standards. The revision to APCR No. 35 changes the applicability threshold regarding HAP emissions but retains the appropriate VOC thresholds for the source category. The other revision to APCR No. 36 exempts *de minimis* sources (solvent cleaners with internal volume of 1 liter or less) consistent with EPA's approval of other state rules controlling VOC emissions from industrial cleaning solvent sources. *See, e.g.*, 79 FR 32873 (June 9, 2014). Any increase in emissions resulting from these revisions to APCR Nos. 35 and 36 are not expected to be significant, and the two rules otherwise generally retain the same VOC emission control requirements as the previous SIP-approved version of these rules. Moreover, as indicated above, Rhode Island is designated as attainment for ozone. Thus, the SIP revisions satisfy the requirements of Section 110(l) of the CAA because they will not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA. Accordingly, we are proposing to approve Rhode Island's revised regulations into the Rhode Island SIP.

EPA is proposing to approve the Rhode Island SIP revision for these six APCR revisions (excluding those provisions indicated above that were not submitted by the state), which was submitted on February 10, 2017. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

III. Proposed Action

EPA is proposing to approve the February 10, 2017 RI DEM SIP submittal consisting of the six revised APCRs: No. 8, “Sulfur Content of Fuels” (with the exception of sections 8.7 and 8.8.3); No. 19, “Control of Volatile Organic Compounds from Surface Coating Operations” (with the exception of section 19.2.2); No. 27, “Control of Nitrogen Oxide Emissions” (with the exception of section 27.7.3); No. 35, “Control of Volatile Organic Compounds and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations” (with the exception of sections 35.2.3 and 35.9.3); No. 36, “Control of Emission from Organic Solvent Cleaning” (with the exception of sections 36.2.2 and 36.14.2); and the definition of “volatile organic compound” in General Definitions.

IV. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference Rhode Island APCRs No. 8 “Sulfur Content of Fuels,” No. 19 “Control of Volatile Organic Compounds from Surface Coating Operations,” No. 27 “Control of Nitrogen Oxide Emissions,” No. 35 “Control of Volatile Organic Compounds and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations,” No. 36 “Control of Emission from Organic Solvent Cleaning,” and General Definitions. The EPA has made, and will continue to make, these documents generally available through www.regulations.gov.

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. *See* 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 proposed

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 proposed 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).

List of Subjects in 40 CFR Part 52

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

Dated: May 25, 2018

Alexandra Dunn,
Regional Administrator,
EPA Region 1.

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