



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2020-0048; FRL-10013-00-Region 1]

Air Plan Approval; Rhode Island; Reasonably Available Control Technology for the 2008 and 2015 Ozone Standards

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. The SIP revision consists of a demonstration that Rhode Island meets the requirements of reasonably available control technology (RACT) for the two precursors for ground-level ozone, oxides of nitrogen (NO_x) and volatile organic compounds (VOCs), set forth by the Clean Air Act (CAA or Act) with respect to the 2008 and 2015 ozone National Ambient Air Quality Standards (NAAQSs or standards). Additionally, we are approving specific regulations that implement the RACT requirements by limiting air emissions of NO_x and VOC pollutants from sources within the State. This action is being taken in accordance with the Clean Air Act.

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-2020-0048. All documents in the docket are listed on the <https://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 <https://www.regulations.gov> or at the U.S.

Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 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 and facility closures due to COVID-19.

FOR FURTHER INFORMATION CONTACT: David L. Mackintosh, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square—Suite 100, (Mail code 05-2), 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 June 18, 2020 (85 FR 36823), EPA issued a notice of proposed rulemaking (NPRM) for the State of Rhode Island. In the NPRM, EPA proposed approval of a SIP revision submitted by Rhode Island on September 20, 2019. The SIP revision contains a certification that Rhode Island has met all RACT requirements for the 2008 and 2015 8-hour ozone NAAQSs and updates the SIP with the following changes to Title 250 Rhode Island Code of Regulations (RICR), Chapter 120 Air Resources, Subchapter 05 Air Pollution Control: Part 0 General Definitions Regulation; Part 11 Petroleum Liquids Marketing and Storage; Part 15 Control of Organic Solvent Emissions; Part 19 Control of Volatile Organic Compounds from Coating Operations; Part 21 Control of Volatile

Organic Compound Emissions from Printing Operations; Part 25 Control of Volatile Organic Compound Emissions from Cutback and Emulsified Asphalt; Part 26 Control of Organic Solvent Emissions from Manufacturers of Synthesized Pharmaceutical Products; Part 27 Control of Nitrogen Oxide Emissions; Part 35 Control of Volatile Organic Compounds and Volatile Hazardous Air Pollutants from Wood Product Manufacturing Operations; Part 36 Control of Emissions from Organic Solvent Cleaning; Part 44 Control of Volatile Organic Compounds from Adhesives and Sealants; and Part 51 Control of Volatile Organic Compound Emissions from Fiberglass Boat Manufacturing.

The NPRM provides the rationale for EPA's proposed approval, which will not be restated here. EPA received no comments on the NPRM.

II. Final Action

EPA is approving the Rhode Island SIP revision as meeting the State's RACT obligations for the 2008 and 2015 8-hour ozone NAAQSs as set forth in sections 182(b), 182(f) and 184(b)(2) of the CAA, and is adding to the SIP the State's submission entitled "Reasonably Available Control Technology State Implementation Plan Revision 2008 and 2015 Ozone National Ambient Air Quality Standards" dated September 20, 2019, which also includes twelve negative declarations for CTG source categories. EPA is also approving Subchapter 05 Air Pollution Control changes to the Rhode Island SIP. Specifically, revisions to Part 0 General Definitions Regulation, Part 11 Petroleum Liquids Marketing and Storage, Part 15 Control of Organic Solvent Emissions, Part 19 Control of Volatile Organic Compounds from Coating Operations, Part 21 Control of Volatile Organic Compound Emissions from Printing Operations, Part 25 Control of Volatile Organic Compound Emissions from Cutback and Emulsified Asphalt, Part 26 Control of Organic Solvent Emissions from Manufacturers of Synthesized Pharmaceutical Products, Part 27 Control of Nitrogen Oxide Emissions, Part 35 Control of Volatile Organic Compounds and Volatile Hazardous Air Pollutants from Wood Product Manufacturing Operations, Part 36 Control of

Emissions from Organic Solvent Cleaning, Part 44 Control of Volatile Organic Compounds from Adhesives and Sealants, and addition of Part 51 Control of Volatile Organic Compound Emissions from Fiberglass Boat Manufacturing, with paragraphs 0.2, 11.2, 15.2, 19.2, 21.2, 25.2, 26.2, 27.2, 35.2, 36.2, 44.2, and 51.2 stricken from the regulations.

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 of the Rhode Island regulations 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 through <https://www.regulations.gov> and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

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:

¹ 62 FR 27968 (May 22, 1997).

- 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);
- Is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866;
- 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 **[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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 3, 2020.

Dennis Deziel
Regional Administrator,
EPA Region 1.

For the reasons stated in the preamble, the EPA amends part 52 of chapter I, title 40 of the Code of Federal Regulations 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:

- i. Amend the table in paragraph (c) by:
 - a. Revising existing state citations for “Air Pollution Control General Definitions Regulation General Definitions”, “Air Pollution Control Regulation 11 Petroleum Liquids Marketing and Storage”, “Air Pollution Control Regulation 15 Control of Organic Solvent Emissions” (and remove one of the two existing state citations for “Air Pollution Control Regulation 15 Control of Organic Solvent Emissions”), “Air Pollution Control Regulation 19 Control of Volatile Organic Compounds from Surface Coating Operations”, “Air Pollution Control Regulation 21 Control of Volatile Organic Compounds from Printing Operations”, “Air Pollution Control Regulation 25 Control of VOC Emissions from Cutback and Emulsified Asphalt”, “Air Pollution Control Regulation 26 Control of Organic Solvent Emissions from Manufacturers of Synthesized Pharmaceutical Products”, “Air Pollution Control Regulation 27 Control of Nitrogen Oxides Emissions”, “Air Pollution Control Regulation 35 Control of Volatile Organic Compounds and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations”, “Air Pollution Control Regulation 36 Control of Emissions from Organic Solvent Cleaning”, and “Air Pollution Control Regulation 44 Control of Volatile Organic Compounds from Adhesives and Sealants”;

b. Adding new state citation for “Air Pollution Control Regulation 51 Control of Volatile Organic Compound Emissions from Fiberglass Boat Manufacturing” in numerical order; and

ii. Amend the table in paragraph (e) by adding a provision for “Reasonably Available Control Technology State Implementation Plan Revision 2008 and 2015 Ozone National Ambient Air Quality Standards” at the end of the table.

The additions and revisions 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 General Definitions Regulation	General Definitions	2/9/2018	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	Excluding 0.2 Application section
**	*	*	*	**
Air Pollution Control Regulation 11	Petroleum Liquids Marketing and Storage	2/9/2018	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	Excluding 11.2 Application section
**	*	*	*	**
Air Pollution Control Regulation 15	Control of Organic Solvent Emissions	2/9/2018	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	Excluding 15.2 Application section
**	*	*	*	**
Air Pollution Control Regulation 19	Control of Volatile Organic Compounds from Surface Coating Operations	2/9/2018	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	Excluding 19.2 Application section

**	*	*	*	**
Air Pollution Control Regulation 21	Control of Volatile Organic Compounds from Printing Operations	2/9/2018	[Insert date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	Excluding 21.2 Application section
**	*	*	*	**
Air Pollution Control Regulation 25	Control of VOC Emissions from Cutback and Emulsified Asphalt	2/9/2018	[Insert date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	Excluding 25.2 Application section
Air Pollution Control Regulation 26	Control of Organic Solvent Emissions from Manufacturers of Synthesized Pharmaceutical Products	2/9/2018	[Insert date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	Excluding 26.2 Application section
Air Pollution Control Regulation 27	Control of Nitrogen Oxides Emissions	2/9/2018	[Insert date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	Excluding 27.2 Application section
**	*	*	*	**
Air Pollution Control Regulation 35	Control of Volatile Organic Compounds and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations	2/9/2018	[Insert date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	Excluding 35.2 Application section
Air Pollution Control Regulation 36	Control of Emissions from Organic Solvent Cleaning	2/9/2018	[Insert date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	Excluding 36.2 Application section
**	*	*	*	**
Air Pollution Control Regulation 44	Control of Volatile Organic Compounds from Adhesives and Sealants	2/9/2018	[Insert date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	Excluding 44.2 Application section
**	*	*	*	**

Air Pollution Control Regulation Part 51	Control of Volatile Organic Compound Emissions from Fiberglass Boat Manufacturing	2/9/2018	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	Excluding 51.2 Application section
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Rhode Island Non Regulatory

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanation
**	*	*	*	**
Reasonably Available Control Technology State Implementation Plan Revision 2008 and 2015 Ozone National Ambient Air Quality Standards	Statewide	Submitted 9/20/2019	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	

[FR Doc. 2020-17414 Filed: 9/2/2020 8:45 am; Publication Date: 9/3/2020]